first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned with a message communicating this resolution.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2205. A communication from the Chairman and the Finance Committee Chairman, transmitting jointly, the revised budget request and supplemental appropriation request for fiscal year 1996; to the Committee on Appropriations.

EC–2206. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period October 1 through December 31, 1995; to the Committee on Armed Services.

EC–2207. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report under the Chemical and Biological Weapons Control and Warfare Elimination Act for the period February 1, 1995 through January 31, 1996; to the Committee on Foreign Relations.

EC–2208. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on finance charges under the Truth in Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–2209. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2210. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2211. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2212. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2213. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2214. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2215. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2216. A communication from the Commissioner of Reclamation, Department of the Interior, transmitting, a report of an overrun of projected cost for Ochoco Dam, Crooked River Project, Oregon; to the Committee on Energy and Natural Resources.

EC–2217. A communication from the Chairman of the International Trade Commission, transmitting, a draft of proposed legislation to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1997; to the Committee on Finance.

EC–2218. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 1743. A bill to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes (Rept. No. 104–252).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 2243. A bill to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes (Rept. No. 104–253).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

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

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

S. 1673. A bill to authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, to authorize certain construction at military installations for Fiscal Year 1997, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

By Mr. GRAMM (for himself, Mr. BIDEN, Mrs. HUTCHISON, and Mr. FAIRCLOTH):

S. 1675. A bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ROBB:

S. Res. 243. A resolution to designate the week of May 5, 1996, as ''National Correctional Officers and Employees Week''; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. Res. 244. A resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 245. A resolution making majority party appointments to the Labor and Human Resources Committee; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE LEGISLATION

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes.

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

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

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 15, 1996.

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

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed legislation, ''To make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes.'' This proposal is part of the Department of Defense legislative program for the 104th Congress.

The proposal would make changes in authorities relating to use of Warsaw Initiative funds for the Regional Airspace Initiative and the Partnership for Peace information management system, limitations of grades of officers on active duty in the military, the use of certain Reservists in Presidential callups, the use of appropriated funds to influence certain Federal contracting and financial transactions, and refinements to third party collection and CHAMPUS double coverage programs. It would address the tax treatment of transfers of Department of Defense owned utility systems. It also would authorize an increase in the penalties for certain traffic offenses on Federal property. It would streamline and simplify child support and alimony garnishment processing. The bill has a provision that would authorize an aviation and vessel war risk insurance program and an extension authority for the Weapons of Mass Destruction Act of 1992.

The Department also requests that the Congress continue to consider for enactment the proposed legislation transmitted last year in the Administration's acquisition reform proposals that would repeal the requirement for recoupment by the Government of certain charges for products sold through the Foreign Military Sales program.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this proposal to the Congress.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

Section 1. The Department of Defense lacks the legal authority to use DoD funds to provide foreign assistance to any foreign country unless such assistance is expressly authorized by law. Therefore, funds appropriated to the Department of Defense for PfP can only be used for activities which DoD can legally perform under existing law, such as to support Partner participation in exercises under the authority of 10 U.S.C. 2010. Since the RAI and PIMS do not fall within the narrow confines of exercise support, the additional authority along the lines of the section above is necessary to support the Regional Airspace Initiative and the PfP Informanagement System.

It is Department of Defense policy to assure mission support utility service at the lowest life-cycle cost. This could include the privatization of existing defense utility systems. In many instances, the Department of Defense is required to make an up-front cash contribution to the utility company for upgraded environmental compliance or additional capacity to effect the transfer of property title.

Section 2. This section would modify section 523 of title 10 to raise the grade ceilings of active duty Army, Air Force and Marine Corps majors, lieutenant colonels, and colonels, and active duty Navy lieutenant commanders, commanders, and captains relative to the total number of commissioned officers on active duty. The revision is driven largely by changes in officer requirements that have occurred since the tables were implemented in 1980. Principal among these are field grade requirements generated by the Goldwater-Nichols and Defense Acquisition Workforce Improvement Acts. Further, other DOPMA constraints on promotion timing and career opportunity have, when coupled with the force reductions since FY 1987, limited the Services' abilities to comply with overall statutory requirements for officer career management.

Section 3. This proposal will provide greater flexibility, cost effectiveness, and efficiency in promoting the acceptance of new technologies necessary to meet Department of Defense (DoD) environmental requirements. The proposal will reduce the frequency and variety of locations required to demonstrate environmental technologies in order to obtain regulatory approval. Early involvement of regulatory agencies in a substantive manner will improve efficiency and avoid repetitive data collection efforts.

Section 4. Because Haiti no longer has a military, it is not eligible under current law to purchase defense articles and defense services from the Department of Defense under the Foreign Military Sales (FMS) program. The proposed legislation is designed to make Haiti eligible for such assistance. FMS sales will facilitate U.S. assistance in developing and equipping civilian-led law enforcement and maritime institutions. Currently, Haiti is developing a maritime law enforcement entity for refugee and contraband control and would be hindered by a lack of spare parts and equipment. FMS cash sales represent the most efficient manner for the Government of Haiti to acquire the equipment needed to support these missions and would complement IMET training the U.S. Government intends to provide Haiti in maritime skills. It would extend the United States' ability to exert a positive influence over the Haitian National Police and Coast Guard.

Section 5. This section would authorize the Secretary of Defense to participate in the Foundation Geneva Centre for Security Policy, established in 1986, whose purpose is to actively promote the building and keeping of peace, security and stability in Europe and in the world. To this end, the Centre (1) conducts international training courses in security policy, (2) carries out research in security policy and stability and (3) organizes conferences and seminars concerning security issues. Unlike the Marshall Center, an institution chartered by the Secretary of Defense and operated under the direction of the Commander-in-Chief European Command, the Foundation Geneva Centre for Security Policy was established by the Federal Military Department of Switzerland. Consequently, the role of the United States will be participatory, limited to attendance by DoD personnel at conferences and seminars and the making available of an instructor as well as liaison personnel to help organize the various activities of the Centre.

Section 6. This proposal would repeal section 1352 of title 31, United States Code, entitled ''Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions'' in its entirety. This section was originally established to prevent the use of appropriated funds for lobbying and requires extensive reporting and certifications by contractors and grantees of covered lobbying activities of the Executive Branch and Congress.

The provisions contained in section 1352 have been rendered duplicative by the Lobbying Disclosure Act of 1995 (Public Law 104–65). This new Act requires reporting of lobbying activities directly to Congress and additionally requires the registration of lobbyists. The primary reporting requirements of section 1352 were rescinded by section 10 of the Lobbying Disclosure Act of 1995. The sole reporting requirement which remains is of no practical use. In addition, the restriction against the use of appropriated funds in section 1352 is unnecessary insofar as sections 911 and 1534 of the National Defense Authorization Act for FY 1986 will remain in effect if section 1352 is repealed.

Retention of Section 1352 places an unreasonable dual burden on contractors and grantees and is contrary to the goals of acquisition reform and simplification. Section 1352 no longer serves a useful purpose for contracting and grants officers and represents extra unnecessary costs of compliance for both government and industry.

Section 7. This provision would adopt several refinements to the Third Party Collection Program under which military medical facilities collect from third party payers for health care services provided to beneficiaries who are also covered by the third party payers' plans, and to the related CHAMPUS Double Coverage Program, under which CHAMPUS is secondary payer to other health plans that also cover CHAMPUS beneficiaries.

For the Third Party Collection Program, the section would make three changes. First it would clarify that the rule under which receipts are credited to the appropriation supporting the facility also applies in connection with services provided through the facility, in addition to services provided ''by'' the facility. This conforms the receipts provision to the overall scope of the Third Party Collection authority. Second, it would clarify that workers' compensation programs and plans are included as third party payers under the program. These plans should not enjoy a windfall in cases in which their beneficiaries, for whom they have collected premiums, happen to receive care in military facilities. Third, it would codify a provision in the DoD Third Party Collection Program regulation (32 CFR 220.12(i)) that, similar to other no-fault automobile coverage, the program includes personal injury protection or medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

For the CHAMPUS Double Coverage Program, the section would integrate the scope of third party payer coverage between the Third Party Collection Program and the CHAMPUS Double Coverage Program. This will assure consistency in third party payer responsibilities relating to the Military Health Services System, regardless of whether their insured or covered beneficiaries receive care in military treatment facilities or under CHAMPUS.

These refinements are consistent with the long-standing Congressional policy of containing health care spending by assuring that third party payers, who generally have collected full premiums for coverage of insured persons who are also DoD beneficiaries, do not shift their costs on to the Federal taxpayers.

Section 8. Under section 118(b) of the Internal Revenue Code, these transfers are a contribution-in-aid of construction (CIAC), and subject to a tax based on their fair market values. By rulings of the Public Utility Commissions in the various States, this tax must be paid by the utility customer, in this case the Department of Defense, which created the tax liability and which cannot be built into the general rate base for all utility customers.

To effect the transfer of Department of Defense owned utility systems, a utility company is obligated to impose a charge on the Department of Defense equal to the CIAC tax which must be paid from Defense Appropriations for Base Operations and Maintenance.

In summary, the consideration of Department of Defense cash or real property transfers as a CIAC to a utility and subject to federal tax merely results in a ''pass-through'' from Department of Defense appropriations through the utility company to the United States Treasury with no-net-revenue-gain to the Federal Government.

The proposed exemption will conserve scarce Department of Defense Base Operation and Maintenance funds, eliminate a no-net-revenue-gain to the Federal Treasury, and reduce the administrative burden of enforcing this section of the Federal Tax Code.

The proposal would permit the Department of Defense to implement its privatization policy of divesting itself from ownership and operation of utility systems without distorting the economic analyses by unnecessary ''added costs'' to the government. The Department of Defense would get out of the utility business in its entirety when it is proven to be cost effective to do so, and concentrate its shrinking resources on its training and war fighting mission. The proposal further would prevent the government from taxing itself when transferring Department of Defense property or paying a connection fee to a utility entity by a Department of Defense installation. It would relieve local utility companies of the burden of having to account for a CIAC and re-bill the Department of Defense for taxes on CIAC. Finally, it would eliminate the need to the Department of Defense to program and budget for the payment of this tax which results in no-net revenue-gain to the Federal Treasury.

Section 9. This provision would amend the Act of June 1, 1948 (40 U.S.C. 318c) which authorizes the Federal prosecution of a person who violates a regulation to control Federal property promulgated by the Administrator of the General Services Administration. Section 4 of the Act provides for a fine of not more than $50 or imprisonment for not more than 30 days, or both. The penalties have not been revised since enactment. This section would amend such section 4 to make the penalties in title 18, United States Code, applicable to violations of regulations promulgated pursuant to the Act. For example, section 3571 of title 18 would establish the applicable fines.

Section 10. This section amends section 659(b) of title 42, United States Code, to delete the requirement for service by certified mail, to require additional information to identify the individual whose pay is subject to legal process.

The current language of section 659(b) requires the use of certified or registered mail or personal service. Personal service, as a practical matter, is rarely used. Requiring that service be made by certified or registered mail increases the likelihood the process will be rejected because many agencies often forget to send the orders by certified mail. This results in increased cost to the government, extensive rework, and further delays the implementation of a support order. The amending language expands the existing language to include facsimile or electronic transmission, mail, and personal service.

The amendment also amends section 659(b) by adding the word ''obligor'' after the word ''individual'' in the sentence to clarify the intent of the statutory language and further designate the person the process must identify, and requires the obligor's Social Security Number, whenever available, as an identifier in order to assist the Government in correctly identifying the proper person. Because of limitations in records that are accessed to process these orders, the name, address, date of birth, and place of birth are generally insufficient to identify an individual. Addresses can change virtually overnight. A Social Security Number is the one identifier that is unique and permanent. Requiring use of the Social Security Number will enhance the ability of an agency to make a correct identification of the person responsible for support payments and expedite the processing of the order.

Section 11. Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 requires that draft final remedial investigations and feasibility studies (RI/FS) be completed within 24 months (for BRAC 88 installations) or 36 months (for BRAC 91 installations) for installations on the NPL unless the Secretary of Defense grants a deadline extension The Secretary may grant such extension only after consulting with the Environmental Protection Agency (EPA) and notifying Congress.

The provision does not help speed cleanups or base closure or encourage greater involvement by EPA and is of no value to the Department. The provision directs project management resources for the periodic notification and formal consultation requirements. The formal consultation is unnecessary because Federal Facility Agreements (FFAs) between DoD and EPA contain cleanup schedules negotiated and agreed to by both parties based on base closure and cleanup goals and priorities.

The provision requires burdensome information gathering, coordination, and reporting that is of no value to the Department. Elimination of the provision would result in reduced red tape thereby expediting the cleanup and transfer of closing bases.

Budget Impact: The amendment does not impact environmental restoration budgeting requirements.

Section 12. (1) *Fort Riley:* The U.S. Environmental Protection Agency (EPA) Region VII, assessed a $65,000 penalty against Fort Riley pursuant to the March 4, 1991, Federal Facilities Agreement which governs cleanup activities at the installation. The penalty was due to the failure to submit the draft final Remedial Investigation (RI) report for the pesticide storage facility. The draft final RI was due on June 3, 1993, and was not submitted until July 19, 1993. On January 26, 1994, Ft. Riley and EPA Region VII agreed to a settlement wherein the Army would pay $34,000 as a cash penalty and $31,000 was mitigated through completion by April 9, 1994 of the following three on-site response actions (removals):

(1) excavation of pesticide and metal contaminated soils at Pesticide Storage Facility,

(2) excavation of lead contaminated soils from Colyer Manor Housing site, and

(3) placement of rock revetment along the Kansas River bank at the Southwest Funston Landfill site.

The $31,000 cleanup project at the pesticide storage facility has been completed. However, enabling legislation is required to pay the $34,000 cash penalty.

The Army has included the $34,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $34,000 to pay this penalty.

(2) *Massachusetts Military Reservation:* The Military Reservation violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region I and the Commonwealth of Massachusetts by failing to submit cleanup studies to EPA and Massachusetts according to an agreed-upon time schedule.

(3)*F.E. Warren Air Force Base:* The Air Base violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region VIII and the State of Wyoming by failing to adequately test potentially contaminated soil at a cleanup site, and by failing to properly containerize such soil.

(4) *Naval Education and Training Center Newport, Rhode Island:* The EPA Region I assessed a $260,000 penalty for non-compliance with the March, 1992 Federal Facility Agreement (FFA) for Naval Education and Training Center, Newport, Rhode Island. The penalty was for failure to submit complete draft Remedial Investigation (RI) reports for McAllister Point Landfill and Old Fire Fighting Training Area. The reports, as submitted to EPA, were incomplete, because they did not contain ecological risk assessments. The draft RI report for McAllister Point Landfill was submitted February 14, 1994 and the draft RI report for Old Fire Fighting Training Area was submitted March 31, 1994. These dates were in accordance with the FFA schedules. A draft report containing ecological risk assessments for both sites was submitted May 30, 1994. On June 26, 1995, the Navy, EPA Region I and the State of Rhode Island agreed to a settlement wherein the Navy would pay $30,000 as a cash penalty and also accomplish the following actions:

(1) arrange for a partnering session among the parties and contribute $10,000 to such an endeavor (completed August, 1995).

(2) removal of sandblast grit at the Derecktor Shipyard site at NETC; cost of the removal to be not less than $90,000 (completed September, 1995).

The Navy has included the $30,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $30,000 to pay this penalty, but enabling legislation is required.

(5) *Lake City Army Ammunition Plant:* The Army violated a CERCLA-mandated Interagency Agreement with EPA Region VII and the State of Missouri for failing to submit Area 18 and Northeast Corner Operable Unit Remedial Investigation Reports to EPA and Missouri according to an agreed-upon time schedule.

Section 13. The purpose of this legislation is to provide a means for rapid payment of claims and the rapid reimbursement of the insurance funds to protect commercial carriers assisting the Executive Branch from catastrophic losses associated with the destruction or damage to aircraft or ships while supporting the national interests of the United States. Allowing the Department of Defense to transfer any and all available funds will allow the United States, in these two vital reinsurance programs, to match standard commercial insurance practice for the timely payment required by financial arrangements common in the transportation industry today. Reporting and the requirements for supplemental appropriations, if any, ensures Congressional oversight at all stages.

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

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

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

oversight is already in place through the reauthorization of the Aviation Insurance Program, next scheduled to take place in 1997.

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must pay claims and reimburse the Federal Aviation Administration. Notification to Congress and the 30 day delay before transfer required in other statutes is waived. The most important issue for the air carriers is the replace of the hull so that they may continue operations, including supporting the requesting agency, without idling crews or having to lay off personnel due to the lack of airframes. A longer time frame is provided for other claims, such as liability to third parties, as normal claims procedures can adequately protect their interest.

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

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

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

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

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

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

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

Section 14. This proposal would modify section 12304 of title 10, United States Code, to provide authority to include up to 30,000 members of the Individual Ready Reserve as part of the 200,000 Reserve component members ordered to active duty involuntarily. This would be done only when the President determines that it is necessary to augment the active forces for any operational mission. This change would ensure the timely availability of certain trained members of the Individual Ready Reserve [IRR] to fill requirements for selected skills in early mobilizing or deploying active and reserve units. This would preclude the need for cross-leveling of personnel from later deploying units to fill shortages in early deploying units. Currently, members of the IRR cannot be ordered to active duty involuntarily until a national emergency has been declared.

Every military unit has vacancies caused by individual schooling requirements, hospitalizations, and transitioning personnel. Additional vacancies occur upon deployment due to personal hardships, medical reasons, and differences between peacetime and wartime manning. In the past, upon deployment, those vacancies have been filled by taking trained personnel from later deploying units or individual volunteers from the IRR. This approach of fixing early deploying units at the expense of units scheduled for later deployment can create a risk with regard to readiness of the later deploying units, should their deployment be required. As the force becomes smaller, every unit in the Reserve components becomes increasingly important. Borrowing personnel from later deploying units is no longer an acceptable option.

The Army has documented the need for early access to members with specific skills, in specific grades, in the IRR to accommodate full-strength deployment of first-to-fight units. Since members of the IRR are in the Ready Reserve but not the Selected Reserve, currently they are not subject to involuntary call-up under the provisions of the section 12304 being amended (Presidential Selected Reserve Call-up) and are therefore not available for filling early deploying unit shortfalls.

This legislative proposal would provide the authority to use a limited number of IRR members who possess specific specialties and grades, and who meet certain criteria, to fill early deploying unit shortfalls, thus lessening the potential impact on the readiness and cohesion of units scheduled for later deployment.

Section 15. This provision would extend, through the end of Fiscal Year 1998, the Weapons of Mass Destruction Act of 1992, which is slated to expire at the end of Fiscal Year 1996. The provision would revise funding restrictions in a manner consistent with the original legislation. Such authority especially is important given ongoing concerns over Iraq's continued possession of weapons of mass destruction and missile delivery systems. The Department of Defense, including its Executive Agent for matters regarding the United Nations Special Commission on Iraq (POTPOR.SECUNSCOM), the On-Site Inspection Agency, requires the authority to continue much of its current activities in support of UNSCOM.

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

S. 1673. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes; to the Committee on Armed Services.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, ''A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes.'' I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose by printed in the RECORD.

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

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 5, 1996.

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

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed draft of legislation, ''To authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, and for other purposes.''

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out the President's budget plans for Fiscal Year 1997. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in Fiscal Year 1997 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

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

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

PROCUREMENT—OTHER MATTERS

Section 110 clarifies that the prohibition in the National Defense Authorization Act for Fiscal Years 1990 and 1991 does not apply to funds authorized and appropriated in the Department of Defense Appropriations Act, 1996 and the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 186). The prohibition was against obligating funds for procuring additional F–15 aircraft. This proposal is similar to previous exceptions at section 137 of the National Defense Authorization Act for Fiscal Year 1992 (Public Law 102–190; 105 Stat. 1312) which permitted the obligation of funds to replace and support F–15 aircraft that had been sold to Saudi Arabia. Without this clarification the Department of Air Force will be unable to

obligate appropriated funds for this program. The proposal also would obviate the prohibition for Fiscal Year 1997 departmental authorizations and appropriations. The President's Budget includes assumptions that the waiver will apply in Fiscal Years 1996 and 1997.

Section 111 updates the cost basis for the definition of the term ''major system'' to fiscal year 1990 constant dollars from fiscal year 1980 constant dollars. It also allows the Secretary of Defense to further adjust these costs after notification of the Congressional defense committees. This language parallels the language in the definition of ''major defense acquisition program'' found in section 2430 of title 10.

The purpose of section 112 is to streamline and simplify the notification process for defense contract workers who are displaced because of termination or substantial reduction in defense contract funding. The current law creates an elaborate process of such a complex and cumbersome nature that it actually prevents prompt notification. The revision places notifications directly at the contract administration level. Additionally, a redundant Federal Register reporting requirement is eliminated.

The proposal would continue the intent of the original legislation—to make displaced defense contract workers eligible for employment services under the Job Training Partnership Act (JTPA).

It would require DOD notifications to contractors upon actual contract terminations or substantial reductions in funding. The original law, on the other hand, had notification triggered by the budget process at the program level when the President's budget was first submitted to Congress. It included provision for withdrawals of notification if Congress provided funding for a program proposed to be eliminated or reduced by the President's budget. The original law also included a provision for notifications based on funding cuts, still at the program level, in the Defense Appropriations Act. This proposal eliminates the necessity of withdrawals of notices by focusing the process on actual contract impacts (instead of ''pending'' terminations or substantial reductions, and relates to obligated funds on a contract by contract basis. Additionally, notifications/withdrawals in the original legislation, at the program level, did not identify which specific contracts under a particular major defense program would be reduced or eliminated.

The proposal also eliminates reporting in the Federal Register of notifications and withdrawals as redundant to the public availability of both budget submissions and enacted defense appropriations legislation.

The proposal retains the following provisions of the original law:

Notification to contractors by DoD within 60 days after enactment of a Defense Appropriations Act; contractor's obligations to inform adversely affected employees, its subcontractors, State Employment Services' dislocated workers units, and the chief elected local government official within two weeks after the contractor receives notification.

Continued requirement to give notice to the Department of Labor.

Notification of contract termination or substantial reduction to enable displaced defense contractor employees to be eligible for JTPA employment benefits.

Continued notifications to affected subcontractors at identified tiers.

Loss of eligibility for JTPA benefits if funding is restored to a contract after notification.

Continued connection to major defense system.

Section 113 would incorporate improvements in the acquisition reporting process of major defense acquisition programs. These improvements reflect recommendations from the Defense Authorization and Appropriation Committees, Congressional Budget Office, and Department of Defense staffs. Briefly, this proposal includes revisions to the section of the law that is related to Selected Acquisition Reporting (SAR).

This provision would replace ''program acquisition unit cost'' with ''procurement unit cost'' as a more meaningful measure of recurring unit cost. Program acquisition unit cost includes Research, Development, Test, and Evaluation (RAT&E), a nonrecurring portion of acquisition costs. Management oversight of *unit* cost should focus on procurement unit cost, the recurring portion of acquisition costs.

The provision also would delete the currently reported completion status for a program, that is, percent program completed and percent program cost appropriated. These calculations of program status can be misleading, particularly in the early development stage of a program. The Department plans to substitute percent program delivered and percent program expended as more accurate measures of program status. These measures also represent the statutory criteria for SAR termination.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Section 202. Section 2366, title 10, United States Code, requires realistic survivability testing on a covered system before the system may proceed beyond low-rate initial production. The law authorizes the Secretary of Defense to waive realistic survivability testing before the system enters into engineering and manufacturing development if a certification is made to Congress that testing would be unreasonably expensive and impractical, and requires a report assessing realistic survivability testing. The V–22 program entered full-scale engineering development (the previous term for engineering and manufacturing development) prior to enactment of the legislation.

This section allows the Secretary of Defense to exercise the waiver authority of section 2366(c), notwithstanding the fact that the V–22 program has already entered engineering and manufacturing development. Such a waiver requires the Secretary of Defense to certify to Congress that live-fire testing of the V–22 would be unreasonably expensive and impractical. The section also provides alternative survivability test requirements for the conduct of any alternative live-fire test program.

Section 203 would amend section 2366(c) of title 10, United States Code, to authorize the Secretary of Defense to exercise the waiver authority in such section, with respect to the application of survivability tests of that section to the F–22 aircraft, notwithstanding that such a program has entered full-scale engineering development.

Section 254 of the National Defense Authorization Act for Fiscal Year 1995 directed the Secretary of Defense to request the National Research Council to study the desirability of waiving the live fire tests that are required by law for the F–22. The Committee on the Study of Live Fire Survivability Testing of the F–22 Aircraft was formed by the National Research Council (NRC) to conduct the study.

The NRC committee began its work in December 1994. Several data gathering meetings were held to expose the committee to the full spectrum of views involving live fire testing of fighter aircraft. A final report entitled ''Live Fire Testing of the F–22'' was published in 1995. The principal recommendation of this report is stated below:

''Principal Recommendation. Permit a waiver of the full-up, full-scale live fire tests required by law for the F–22. The committee believes that such tests are impractical and offer low benefits for the costs.''

The NRC report contains four pages of recommendations. The F–22 System Program Office (SPO) is preparing a detailed response to each of the NRC recommendations. The F–22 SPO will coordinate these additional RDT&E activities with the responsible Air Force and OSD offices.

Given the above NRC recommendation, the Department of Defense is submitting legislation to authorize a retroactive waiver of the survivability and lethality testing procedures that apply to the F–22 Program.

This law change avoids the purchase ($181M in FY90$, $250M in TY$) of an additional F–22 aircraft for full-up, full-scale destructive live fire testing.

Section 204 would clarify and, to the extent necessary, override the provisions of section 1701 of the National Defense Authorization Act for Fiscal Year 1994, or other laws, which indicate that the basic and applied research and advanced technology development activities of the Defense Advanced Research Projects Agency are to be subordinated to other research organizations or entities within the Department. This would restore the agency to its traditional function within the Department.

TITLE III—OPERATION AND MAINTENANCE

Section 310 would expand the remedies available to contractor employees who are wrongfully terminated because they reported wrongdoing.

This legislation would also amend the law to provide that the investigative costs may be assessed against a contractor when the allegation of reprisal is substantiated.

Any additional costs required by this proposal will be absorbed in departmental operation and maintenance accounts.

Section 311 would repeal section 12408 of title 10, United States Code, which requires that each member of the National Guard receive a physical examination when called into, and again when mustered out of, Federal service as militia. For short periods of such service, this requires two complete physical examinations during a period of days or weeks. In view of other statutory and regulatory requirements for periodic medical examinations and physical condition certifications for members of the National Guard, this additional examination requirement is unnecessary, administratively burdensome, and expensive, and could impede the rapid and efficient mobilization of the National Guard for civil emergencies.

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

Section 312 would amend section 4105 of title 5, United States Code, by adding a new sentence to authorize the utilization by military personnel of arrangements and agreements developed for training civilian employees. Current authorities do not provide a streamlined procedure for the acquisition of commercial courses for military personnel, whereby the Government Employees Training Act of 1954 authorized procuring such courses without regard to acquisition practices contained in part 5 of title 41 and the prohibition against paying in advance of receipt of services now contained in section 3324 of title 31. Allowing military personnel to utilize these procedures will streamline acquisition of these courses, enabling utilization of commercial credit cards and electronic funds transfer, where appropriate, to parallel practices in commercial industry.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by decreasing their intensive procurement methods and authorizing training personnel to procure such training for military personnel in addition to civilian personnel training rather than have contracting personnel involved in the acquisition of what were basically commercial services.

Section 313 provides authority to Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or compatible economic incentives.

Federal fiscal law and regulations generally require proceeds from the sale of government property to be deposited in the treasury. These regulations preclude an agency from keeping the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the investment of those funds to purchase needed air credits 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. CAA §110(a)(2)(A) provides that SIPs ''shall include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights) . . . as may be necessary or appropriate to meet the applicable requirements of this chapter.'' See also CAA §176(c)(6) (similar language specifically directed toward SIPs for nonattainment areas for NAAQs).

A number of state and local air quality districts have already established various types of emission trading systems (see Brownstein, ''Report on Select Emissions Trading Programs,'' prepared for the Virginia Department of Environmental Quality by the Mid-Atlantic Regional Air Management Association (1995), examining 11 state trading and banking programs). However, the military services presently lack clear authority to sell Clean Air Act economic incentives and, if such incentives were sold, would have to remit the proceeds to the U.S. Treasury. Assuming sale authority is granted, this authority needs to be coupled with the right to retain the proceeds at the installation level in order to create a local economic incentive to reduce air pollution above and beyond legal requirements and thereby create a marketable commodity. Retention and use of proceeds at the installation level is a key component of the proposed bill. Because this new authority would be similar in concept to existing authority for the sale of recyclable materials and retention of proceeds from the sale for use by the local military installation, the proposed bill is patterned on that authority.

In 1982, Congress passed Public Law 97–214, 10 U.S.C. §2577, Disposal of Recyclable Materials, to provide greater economic incentives for military departments to develop aggressive recycling programs at the installation level to reduce the volume of materials going into the waste stream. The statute gave the Secretary of Defense authority to prescribe regulations for the sale of recyclable materials held by a military department or defense agency. All sales of recyclable materials by the Secretary of Defense or a Secretary of a military department must be in accordance with the procedures of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property. The important feature of the statute which provides a significant local economic incentive is that net proceeds from the installation's sale of recyclable materials remain at the installation, available for use in local programs (i.e., pollution abatement, energy conservation, and the moral and welfare account) rather than having to be forwarded to the U.S. Treasury, the standard requirement. When a ''profit'' can be realized and applied in support of local operations, the installation commander has a definite incentive to develop and implement a successful program.

Proceeds from the sale of recyclable materials in the DoD program had increased from $1.5 million in FY 1983 to $37 million in FY 1992. The success of the DoD recycling incentive program clearly demonstrates that there can be significant benefits to the environment, such as reduction of waste streams going to landfills, that also make sense economically when direct economic incentives are created to reduce pollution.

Budget Impact: This provision will not result in increased cost to the military. Military installations will develop tradable credits only when economically beneficial for future use at the same or other installations, or for selling on the private market. Only installations located in areas where an emissions credit program has been implemented can utilize this provision. Currently only a few states have developed such programs, with several states in the process of the necessary rulemaking. With the number of installations able to participate being unknown; no cumulative cost-benefit analysis can be presented.

However, an example demonstrating the potential cost/savings benefits of the proposed legislation is the RECLAIM air emission trading program in the South Coast Air Quality Management District (SCAQMD), California. The RECLAIM program is an allowance type market program for NO_x (Nitrogen oxides) and SO_x (sulfur oxides) sources. RECLAIM Trading Credits (RTCs) are issued annually, upon payment of a fee, to a facility at the start of its compliance cycle (one year). The number of RTCs issued to a facility decline each year. If a facility has RTCs that it does not require for its own use, it may sell those RTCs to other RECLAIM facilities. Several military installations are required to participate in the NO_x RECLAIM program including March Air Force Base, Long Beach Naval Shipyard, and Naval Auxiliary Landing Field San Clemente Island. These military facilities will also be included in the RECLAIM program for VOCs once it is approved.

RECLAIM was effective January 1, 1994. By December 1994, at the conclusion of the first year of the program, March AFB held 69,246 pounds of surplus NO_x RTCs which, if the proposed legislation was in effect, it could have sold/traded to other RECLAIM facilities. March AFB could have potentially recouped half its investment having paid $00.10 per pound or $7,051 for the unused credits. In 1995, March paid $12,415.00 for 110,458 NO_x RTCs; it expects to use 90,000. However, since March is closing, once the active duty forces have left on April 1, 1996, March will have a significant decrease in NO_x emissions meaning it will then have a significant number of RTCs to trade/sell.

A report on RECLAIM trading provides interesting market data (see Margolis, ''In the RECLAIM Trading Pit—Progress, Problems, and Prospects,'' Dames & Moore Air Trade Services, Air & Waste Management Association, 88th Annual Meeting (1995)). At least 30 trades have occurred involving about 5.5 million pounds of NO_x. The largest trade to date was between Union Carbide Corporation (RTC seller) and Anchor Glass Container Corporation (RTC buyer) involved a stream of 1994 through 2010 NO_x RTCs equaling about 1,700 tons. The price was $1.2 million for the entire stream, or about $700 per ton of RTCs (in 1994 dollars). The first RECLAIM auction, held in July, 1994, drew 17 sellers and 6 buyers; 48,700 pounds of 1995 NO_x RTCs sold for $334 per ton and 2,500 pounds of 1996 NO_x RTCs sold for $574 per ton. The 1995 RTCs that March projects to have this year, by interpolation, could then be sold for $3,340.00, not a large sum, but, as noted above the sales price will increase in succeeding years as all facility allocations decline. The sale reduces compliance costs and proceeds offset fees incurred by the military facility. Recent trading in the RECLAIM program showed that the cost for RTCs useable in the years 2010/11 had risen to $1706/ton.

We anticipate that many other areas of the country will be implementing ''RECLAIM'' type programs that require military installations to purchase credits or allowances based on estimated allocations rather than actual emissions. In time, the new CAA Title V Operating Permit Programs will include trading components and Title V is based on ''potential to emit'' rather than actual emissions. It is therefore necessary to give the military services the required authority and flexibility to fully participate in these new emission trading programs.

Section 314 would revise subsection 2216(i)(1) of title 10, United States Code, to reestablish compatible capital asset thresholds for Operation and Maintenance (O&M) funded activities and DBOF funded activities. Historically DBOF business areas have used the same capital asset threshold as used by O&M funded activities to ensure application of consistent accounting policies throughout the Department and to simplify training and management requirements. The raising of the O&M capital asset threshold to $100,000 reflects the impact of inflation on the cost of equipment and software and the recognition that $50,000 is no longer a reasonable threshold for the additional management requirements associated with capital purchases.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Section 402 would amend section 115(d) of title 10, United States Code, by adding a new subsection (8), which would exclude a limited number of Reserve component members, who are serving on active duty for special work for more than 180 days, from counting against the end strength for each of the armed forces (other than the Coast Guard) authorized for active duty personnel who are to be paid from funds appropriated for active duty personnel. This proposed amendment would increase accessibility to Reserve component members and provide for greater continuity in the use of Reservists to support CINC and other active force OPTEMPO requirements. The number of Reserve component members serving on active duty for more than 180 days, excluded under this provision, could not exceed two-tenths of one percent of the authorized active duty end strength for each military service.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Matters Relating to Reserve Components

Section 501 would amend section 14514, chapter 1407, of title 10 of the United States

Code to authorize the Service Secretaries to separate administratively members in an inactive status for years of service or after selective removal without convening a discharge board.

Enactment of this technical change closes a loophole that allows retention of non-participating members in the Standby Reserve with no benefit to the government. The majority of these members are retirement eligible and have not applied for transfer to the Retired Reserve. Assignment of these Reserve members to the Retired Reserve benefits the government as they are available for use much earlier in a contingency due to a higher DOD mobilization priority selection. Congressional authority is required to recall the Standby Reserve. World War II was the last time Congress recalled the Standby Reserve. Presidential authority is required to recall Retired Reserve members. The last time the President recalled the Retired Reserve was during DESERT SHIELD/STORM.

Another benefit is reduced administrative cost to the government due to selective removal of members from the inactive status. Presently, in order to separate these members an Administrative Discharge Board must be convened by the responsible agency and this board must be comprised of personnel who are senior in grade to the member being considered for discharge. Convening a board involves travel expenses, per diem, pay and allowances, commissary and base exchange privileges and the administrative costs of the board. Approval of this change allows the Service Secretaries to be more efficient and cost effective in managing their inactive reserves.

Any additional administrative costs in the enactment of this proposal will be accomplished within available operational and maintenance funds.

Section 502 would amend section 12205 of title 10, United States Code, relating to the ability of members of the Naval Reserve to be promoted. The amendment would authorize naval service members who are selected for service as commissioned officers under the Seaman to Admiral program to be promoted above the grade of lieutenant (junior grade) even though they might not have completed baccalaureate degree requirements at the time they are considered by the lieutenant (0–3) selection board. Section 12205 restricts the promotion of officers of the Naval Reserve who do not have baccalaureate degrees to no higher than the grade of lieutenant (junior grade), with exceptions for limited duty officers and members commissioned under the Naval Aviation Cadet (NAVCAD) program. This section would simply add an exception for members commissioned under the Seaman to Admiral program.

The Seaman to Admiral program was designed to provide commissions to outstanding enlisted members of the Navy even if they do not have a college degree. This program provides an excellent opportunity for up to 50 truly outstanding Navy enlisted personnel per year. After selection to the program and commissioning as ensigns in the Naval Reserve, the Seaman to Admiral selectees attend from 16 weeks to 2 years of warfare training. These officers then serve in their wartime communities in initial operational tours of duty. Later, they are afforded the opportunity to earn college degrees at Government expense. Attendance at college would commence when they have approximately 3–4 years of commissioned service, coinciding with the promotion flow point to lieutenant. Under current law, the Seaman to Admiral program selectees will not be eligible for promotion above 0–2 at that flow point, as most will not have earned college degrees. At their ''second look'' for promotion to lieutenant, approximately the 5-year mark, current law would require officers who have not yet completed degrees to be passed over a second time. Under current law, members passed over twice must be separated from the service.

This section is needed to remove the unintended consequence of forcing failure of selection for promotion, without regard to performance. This amendment will allow Seaman to Admiral program selectees to become commissioned officers with full career opportunity according to merit, including promotions at the normal flow points.

In the first 2 years of this program, 58% of the selectees in an intensely competitive selection process had already completed a portion of their college education prior to selection. This bill is intended to ensure these outstanding junior officers retain the ability to complete for promotion based on their performance.

The proposed legislation would result in no additional Department of Defense costs or budget requirements.

Section 503 would direct the Secretary of Defense to conduct a regionalized test of unlimited commissary privileges for members of the reserve component of the Armed Forces who are currently eligible for limited use of the commissary. Currently, eligible members of the Ready Reserve and Retired Reserve as authorized 12 days of commissary shopping in a calendar year. The test would provide a means of evaluating the extent to which an expansion of commissary privileges for currently authorized Reservists might impact on commissary operations.

Section 504 would amend section 12868 of title 10, United States Code, as added by the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2998), to provide discretionary authority to the Secretaries of the Military Departments and the Secretary of Transportation to except certain members of the reserve component, who serve on active duty (other than for training) from the limitations on separation contained in that section. Under section 12868, a member of a reserve component who is serving on active duty (other than for training), and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system may not be involuntarily released from active duty without the approval of the Secretary concerned. The amendment would provide that reservists who volunteer to serve on active duty (other than for training) for a period of 180 consecutive days or less could be excepted from the general prohibition on involuntary release even though they complete 18 or more years of service. This exception would apply only if the member is informed of and consents to such exception prior to entry on active duty. This exception would not apply to reservists involuntarily ordered to active duty. There are no costs associated with the provision.

Section 505 would change the number of years that the Department of Defense could recognize a baccalaureate degree awarded by a qualifying educational institution from three years to eight years. The typical promotion opportunity to the rank of Captain in the Army Reserve, Army National Guard, Air Force Reserve, Air National Guard, and Marine Corps Reserve, and Lieutenant in the Naval Reserve occurs at approximately three and one half years of service. Officers typically remain eligible for promotion through approximately seven and one half years of service before mandatory separation processing occurs for failure to select for promotion. The current three year statutory limitation for recognizing a baccalaureate degree from a qualifying educational institution effectively precludes an officer who holds such a degree from meeting the educational requirements for promotion, even at the first promotion opportunity, unless the officer earned the degree sometime after receiving a commission. By changing the period that the Department can recognize a degree from a qualifying educational institution to eight years, we provide these officers every opportunity to be appointed or federally recognized in the grade of O-3 based on their overall performance and qualifications for promotion, to include necessary post-secondary educational requirements.

This proposal has no budgetary effects to the Department of Defense.

Section 506 would amend subsection 418(c) of title 37, United States Code, to correct an erroneous reference. Section 1038(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) amended section 418 of title 37, U.S.C. to prohibit paying a uniform allowance or furnishing uniforms under section 1593 of title 10, U.S.C., or section 5901 of title 5, U.S.C., to enlisted members of the National Guard employed as technicians under section 709 of title 32, U.S.C. for periods of employment ''for which a uniform allowance is paid under section 415 or 416'' of title 37. The intent of this legislation is to prevent technicians from receiving uniform benefits from two different sources. However, because sections 415 and 416 of title 37, U.S.C. only apply to uniform allowances for officers, this reference is incorrect. The legislation should have referred to section 418 of title 37 (itself) because this is the authority for providing uniform benefits to enlisted members. The amendment correct the erroneous reference.

Section 507 would amend section 12310 of title 10, United States Code to provide that certain reserve personnel serving in composite organizations which support both the active and reserve components, reserve personnel on duty for peacetime standby air defense and ballistic missile defense operations within the territory of the United States, and reserve personnel on duty in reserve component organizations which have been assigned the responsibility for the conduct of activities of the service Secretaries in support of any part of a military department, may be counted against the end strengths for reserve personnel on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing or training the reserve components.

Subsection (c)(1) would supplement 10 U.S.C. 2571, which permits any department or organization of the Department of Defense to perform work and services for any other department and organization without reimbursement, by treating as AGRs reserve personnel who perform any function of a secretary of a Department which has been assigned by that secretary to a reserve component organization for execution, with the consent of the Chief of the National Guard Bureau or the chief of such reserve component. A reserve component organization, for purposes of this section, would be an organization under the control of the Chief of the National Guard Bureau or any of the chiefs of the reserve components.

Subsection (c)(2) would provide that peacetime standby air defense and ballistic missile defense of the territory of the United States would be included within the scope of functions for which reserve personnel would be accountable against reserve component end strengths. Thus Air National Guard personnel of the First Air Force would be accounted for as Active Guard and Reserve personnel while instructing and training for and performing standby air defense activities and Army National Guard personnel would be similarly treated when conducting standby ballistic missile defense activities for the

Ballistic Missile Defense Organization. Section * * * of title 10 would permit these AGRs to conduct air defense and missile defense after a mobilization.

Subsection (d) would provide that Reserve personnel be authorized to supervise and command active component personnel in a composite organization which conducts activities in support of both active and reserve components.

Subtitle B—Officer Education Programs

Section 510 would modify title 10 to set the maximum age for ROTC scholarships at age 27, vice age 25 (10 U.S.C., §2107); would concurrently modify the age standard for Service academies (10 U.S.C., §§4346, 6958, 9346) to ensure that academy entrants also would be appointed as commissioned officers by age 27. Specifically, this would add two years for ROTC scholarship students and a single year for the academies. The change is driven by a need reported by all Services—to relax the ROTC age standard as a means of expanding the recruiting pool, while accommodating promising students who otherwise would be ineligible. The Service academy change flows from a recognition that the controlling criterion (a youthful and vigorous officer corps) should bear equally on both sources of commission.

This provision would apply to classes entering the service academies of 1997 and thereafter.

Section 511 would modify current law (10 U.S.C. 2107) to permit initial award of ROTC scholarships to those who already have received a baccalaureate degree, provided the recipient executes contractual commitments, including enrollment in the ROTC advance course. Today, Services cannot recruit a 22 year-old electrical engineer with bachelors degree, who (never before an ROTC participant) could earn a masters degree in two years while completing the ROTC advanced course, qualifying for commission. This exclusion also penalizes top performers who graduate from high school or enter ROTC with advanced college credit, since the scholarship is terminated when they complete the undergraduate degree, yet they must remain in college to complete ROTC commissioning requirements. No additional costs would be incurred, since this simply would permit more-efficient channeling of existing scholarships.

Subtitle C—Other Matters

Section 515 would expand the definition of the term ''active status'' in section 101(d) (4) of title 10, United States Code, to include both officers and enlisted members of the reserve components, who are not in the Inactive National Guard, on an inactive status list, or in the Retired Reserve. This change is consistent with Section 10141(b) of title 10 which addresses the status of reserve component members and which states that *all Reserve members* who are not in an inactive status or a retired status are in an ''active status.''

Section 516 would amend sections 574(e) and 575(b) of title 10 to reduce the minimum time in grade necessary for promotion to two years rather than three, and to authorize the below-zone selection for promotion to the grade of chief warrant officer, W–3.

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

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

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

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

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

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

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

These changes would increase the size of the group under consideration for promotion but would not authorize any additional numbers of total promotions from that larger group. As a result, this proposal would not result in any increased cost to the Department of the Navy, other services, or the Department of Defense.

Section 517. The FY–96 National Defense Authorization Act (Public Law 104–106; 110 Stat. 186) amended title 10, United States Code, by adding Chapter 76—Missing Persons. While the Department supported the Senate version of the act, the compromise version adopted into law contains several provisions which will have a negative impact on efforts to account for missing personnel, the well being of their families, and the people who are charged with the accounting effort. The proposed repeals and amendments are intended to ensure that the process of determining the fate and accounting for America's missing are not inadvertently hindered, and that the families get the answers, rights and benefits they deserve without placing additional financial and emotional burdens on them.

(a) REPEAL.—

(1) Section 1508 (Judicial Review).—The section provides the primary next of kin or previously designated person(s) the right to appeal a finding of death on the basis of a subjective opinion that proper weight was not accorded to available information.

This provision will create an undue delay in the final resolution of a missing person's status and subsequently benefits to the beneficiaries. This right to challenge the finding becomes even more disruptive when the beneficiaries are not a party to the appeal. In addition, the court is not being asked to judge whether a person's rights have been violated, but rather to render a subjective opinion on the strength and validity of information related to the case, a role military experts and peers of the missing person have already performed.

(2) Section 1509 (Preenactment, Special Interest Cases).—The section requires the establishment of boards of inquiry for Cold War (dating back to Sept. 2, 45), Korean and Vietnam War unaccounted for cases if new information, from any source, becomes available that may result in a change of status.

This provision will at best consume a significant amount of time and money, and at worse produce a lose-lose situation—given the age of these cases and the possible inability to locate all relevant evidence or witnesses. The Secretary concerned already has the ability under chapter 10, title 37 U.S.C. to review cases if evidence arises that indicates that a service member previously declared dead may be alive. To date, the findings of the Senate Select Committee on POW/MIA Affairs and the current work being conducted by the Defense POW/MIA Office, USCINCPAC's Joint Task Force-Full Accounting, U.S.-Russia Joint Commission, and the central Identification Laboratory, Hawaii, to account for American service personnel have been unable to uncover any credible evidence that there are unaccounted for service members still alive from the Cold War, Korean War, or the Vietnam War.

(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Requires the theater component commander to review all missing person's recommendations from the unit commanders, in the field, and then certify that all necessary actions are being taken and all appropriate assets are being used to resolve the status of the missing person. In addition the provision provides the missing person's unit commander only 48 hours to complete an initial investigation and forward a missing recommendation to the theater component commander.

The review and certification requirements by the combatant commander work under the assumption that all future conflicts will be small in scope and casualties limited in number. In a major conflict, with heavy losses, the volume of certification requirements will severely tax the Component Commanders, and their staffs, and divert their attention at a time when they are charged with the grave responsibility of directing the CINC's military efforts in the theater and leading soldiers, sailors, and airmen in battle. The unit commander, grade 0-5 or above, who conducts the investigation under section 1502 is more than capable of conducting

a full search and rescue effort, and a thorough investigation of the loss. A minimum of 10 days is required, rather than 48 hours, to conduct a thorough and complete investigation and provide a fully informed recommendation.

(c) COUNSEL FOR MISSING PERSON.—Requires the Secretary to assign a missing person's counsel to represent each missing or unaccounted for person. Counsel is tasked with reviewing each piece of new evidence that may affect the missing person's status to determine if it is significant enough to recommend that the Secretary appoint a review board. In addition, the counsel is directed to review all information, attend board deliberations, and provide a written report as a companion to the review boards report.

This provision presupposes that the U.S. government does not hold the interest of the missing person as the compelling factor in determining their status. It also creates an adverserial environment that, as shown by experience in other similar types of investigations, may ultimately have a negative impact on the investigative process. The requirement for a lawyer to attend deliberations and then comment on the findings may have a chilling effect on the board's deliberations—nowhere else in our system are lawyers representing an affected party allowed to sit in on the deliberations of a deliberative panel. This effect is exaggerated for multiple loss cases where the provision requires one counsel for ''each'' mission person; i.e., if 20 servicemen are lost in a plane crash, 20 lawyers must be assigned to the case. Finally, the requirement to have a lawyer review every new piece of information, creates an administrative and financial burden on the Department by requiring the Office of Missing Persons to maintain a full time cadre of lawyers to conduct such reviews alongside the intelligence analysts who already have this responsibility. There have already been 17,000+ live sighting or dogtag reports from the Vietnam War alone.

(d) THREE YEAR REVIEWS.—Requires that the Secretary appoint a review board every three years, for 10 years, for persons in a missing status who are last known alive or last suspected of being alive.

This requirement will only cause undue pain and financial hardship on families by requiring a status review when no new information on which to base a change in status exists. It works under the assumption that the Department will not pursue a case unless a formal board is established every three years to look into the case. Section 1505 already requires the Secretary concerned to convene a board if new information becomes available that may result in a change of status. Section 1506 requires all new information to be placed in the missing person's record, or notice thereof, and that the information or knowledge of its existence be forwarded to the family. In addition, the Government creates a double standard in that the three year review is only applied to a select number of cases. The Department feels every case/family deserves equal treatment.

(e) WRONGFUL WITHHOLDING.—The provision makes it a criminal act for a person to knowingly and willfully withhold from a missing person's file any information relating to the disappearance or whereabouts and status of the missing person. It provides for a fine under title 18 or imprisonment of not more than 1 year, or both.

The investigative and legal burden that this criminal provision will create for the analysts and other members of the Office of Missing Persons will have a debilitating effect on the pace of POW/MIA work and the quality of personnel the office is able to recruit. The Defense POW/MIA Office is often accused by a select group of families and activists with withholding documents and information from the case files of unaccounted for service members. Justice has reviewed several such allegations in the past and has found them baseless, however attaching criminal liability to such charges will create a working environment where DPMO staff ends up spending scarce time and resources aggressively defending their conduct rather than working to resolve the fate of the missing.

(f) RECOMMENDATION ON STATUS OF DEATH.—Requires that a review board recommending a status of death provide information on the date and place of death, and if remains are recovered, a description of the location where it was recovered and certification of identification by a forensic scientist, if visual identification was not possible.

Under section 1501(e), the provisions of the chapter 76 cease to apply when a person is accounted for, as defined in section 1513(3)(B), recovery and identification of the person's remains by a forensic scientist of identification, if visual identification was not possible.

(g) DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.—The law applies equal coverage to Department of Defense civilian and contractor employees who accompany forces in the field, and members of the Armed Forces. The FY–96 Defense Authorization Act calls on the Secretary of State to conduct a one year study on how best to apply similar coverage to all government civilian and contractor employees who accompany forces in the field.

Until the Secretary of State reports to Congress the results of his study on how best to cover government civilians and contractor employees, the Government risks inadvertently harming the people it is trying to protect by failing to address in chapter 76 the impact this measure may have on:

(1) provisions of title 5 U.S.C. and other civil service guidelines;

(2) the fact that such individuals may not fall under UCMJ authority;

(3) pay and promotion issues; and,

(4) other nuances that need to be examined in the Secretary's study.

While the Department agrees that there is a need for legislation covering Department of Defense civilian and contractor employees, at this point it would be better to wait until the study is complete and then address all U.S. Government and contractor employees who accompany the armed forces in hostile environments under a separate piece of legislation.

Section 518 amends section 5721 of title 10 to make permanent the authority for temporary promotions of certain Navy lieutenants.

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

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

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

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,317	1,406	89
1,120	635	819	184
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	2,094	2,389	295

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

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,095	1,406	311
1,120	436	819	383
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	1,673	2,389	716

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

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

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

Section 519 would modify title 10, United States Code, (§513) to permit extension in the Delayed Entry Program (DEP), for meritorious cases as determined by the Secretary concerned, beyond the 365-day time limit currently established by the statute. Notably, applicants who enter the DEP in June or July are within a few weeks of that ceiling when they graduate from high school; consequently, a delay would force discharge and re-accomplishment of enlistment, with associated challenge and expense. In the past, natural and manmade disasters have forced delays in shipping schedules, and this change simply would permit, on a selective basis, the avoidance of discharge/enlistment paperwork drills.

Section 520. Currently, section 505(d) of title 10, United States Code, authorizes the Secretaries of the military departments to accept reenlistments in regular components for a period of at least two but not more than six years. Accordingly, even senior enlisted members of the armed forces who have made military service a career must periodically reenlist. This proposal would eliminate the administrative efforts and associated

costs that occur as a consequence of the requirement to reenlist continually senior enlisted members.

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

Section 521. As a result of the demise of communism and a reduction in the size of military forces in many nations, including the U.S., it is important that allied and other friendly countries work together to standardize doctrine, procedures and tactics and share responsibility in the development and production of military systems to promote standardization and interoperability at reduced costs. The exchange of military and civilian personnel between defense establishments is one of the efficient and cost effective means that can be used to promote these objectives. Under the proposed exchanges, costs would be borne by the government of the exchange personnel except for activities that are directed by the host party or where orientation or familiarization training is made necessary by the unique qualifications of the assignment. The proposal further stipulates that the benefit to each government must be substantially equal which ensures that each government benefits from the exchanges.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Section 601 would waive the adjustment required by section 1009 of title 37, United States Code and increase the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters by three percent. This is what the President submitted in his budget for Fiscal Year 1997.

Section 602 amends subsection 403(a) of title 37, United States Code, by adding a provision that would eliminate the entitlement to Basic Allowance for Quarters (BAQ) for members of the Ready Reserve who occupy government quarters during short periods of active duty, fifteen days or less, and who are not accompanied by their dependents. This legislative proposal is a National Performance Review initiative. It would eliminate the requirement to provide BAQ to Reserve component members performing annual active duty for training when government berthing/housing is provided. Reserve component members performing active duty when government quarters are not provided or when members are accompanied by their dependents would not be subject to this limitation. The five year cost saving associated with this proposal is estimated at $913 million and is distributed as follows:

[In millions of dollars]

Fiscal year:	
1997	178
1998	180
1999	184
2000	187
2001	184
Total	913

Section 603 would amend section 403(c)(2) of title 37, United States Code. This provision prohibits the payment of the basic allowance for quarters to all members below the pay grade of E–6 without dependents, while assigned to sea duty. Amending this section will remove the prohibition against single E–5 members and authorize them to receive either quarters ashore (adequate or inadequate) or the payment of the basic allowance for quarters.

In the words of Master Chief of the Navy, John Hagan, amending section 403(c)(2) is ''well past time for E–5 Sailors to get (this) benefit'' calling this shortcoming ''the most compelling inequity in our entire compensation system.''

This section also would amend 37 U.S.C. $403(c)(2) to remove the monetary penalty for joint military couples, below the pay grade of E–6, serving simultaneous shipboard duty. Currently, those military couples who serve onboard ships at the same time lose all of the entitlement to BAQ/VHA. Law would be amended to state that a couple's combined BAQ/VHA entitlement be equal to BAQ (with-dependents rate) or VHA (with-dependents rate) calculated for the senior member's pay grade only.

Section 604 would strike out paragraph (2) of section 203(c) of title 37. Section 203(c)(1) stipulates the specific rate of cadet and midshipmen pay as determined by the Congress. Paragraph (2) is inconsistent with the adjustment called for in the section. Making an adjustment under the seldom used section 1009 would result in a level of pay different than the exact rate specified by the Congress in section 203(c)(1). The inconsistent provision accordingly is recommended for deletion.

Subtitle B—Extension of Bonus and Special Pays

Section 605 would extend the authority to employ accession and retention incentives, ensuring that adequate manning is provided for hard-to-retain skills, including occupations that are arduous or that feature extremely high training costs (e.g. aviators, health care professionals, and incumbents of billets requiring nuclear qualification). 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 these incentives in supporting effective manning in these occupations.

Section 606 would extend the authority to employ recruiting and retention incentives to support effective manning in the Reserve Components, ensuring that adequate manning is provided for hard-to-retain skills. These bonuses also stimulate the flow of manning to undersubscribed Reserve units. Experience shows that retention in those skills, or in those units, would be unacceptably low without these incentives. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in such occupations and units.

Section 607 would extend the authority to employ accession and retention incentives to support manning for nurse billets that have been chronically undersubscribed. Experience shows that retention in the nursing field would be unacceptably low without these incentives, and the Department and Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning levels within the nursing field.

Subtitle C—Travel and Transportation Allowances

Section 610 would amend title 37, United States Code, to authorize round-trip travel allowances for transporting motor vehicles at government expense. The bill amends section 406 (b)(1)(B)(i)(I) and 406 (b)(2)(B)(i)(II) of title 37, United States Code, to authorize round-trip travel allowances when a member transports a motor vehicle to and from the port, in conjunction with a permanent change of station move between OCONUS and CONUS locations. The provision also provides that the amendment made by section I shall take effect on July 1, 1997.

Section 611 would allow the Department of Defense to reimburse non-Federal civilians, who serve as school board members, for approved training and eliminate the disparate treatment of school board members serving pursuant to section 2164(d) of title 10, United States Code. Currently, only school board members are employees of the Armed Services of Federal Government are authorized reimbursement for approved training under both the Federal Training Act, title 5, United States Code, section 4109, and the Joint Federal Travel Regulations, Volume 2, Paragraph C 4502. Since non-Federal civilian board members cannot be reimbursed for training, they are not sent to training.

Section 612 modifies section 2634 of title 10, United States Code, by authorizing the Government-funded storage, in lieu of transportation, of a service member's motor vehicle when that service member is ordered to make a permanent change of station to a location which precludes entry of or requires extensive modification to the motor vehicle. Subsection (b) of the provision would modify section 406 of title 37, United States Code, to authorize the storage of a motor vehicle as provided for in section 1 of this bill. Subsection (c) would provide that the amendments would take effect on July 1, 1997.

Section 613 would repeal section 1589 of title 10, which prohibits the Department of Defense from paying a lodging expense to a civilian employee who does not use adequate available Government lodgings while on temporary duty. Although the purpose of section 1589 is to reduce the Department of Defense travel costs, the law can increase travel costs because it considers only lodging costs, not overall travel costs. Deleting the provision would enable Department of Defense travelers, supervisors and commanders to make more efficient lodgings decisions, with potential cost savings for the trip as a whole.

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

When a temporary duty trip involves business on and off-base, the cost-effective business decision, considering factors such as rental car costs, must be made on a case-by-

case basis. The current law allows no flexibility for the cost-conscious resource manager. To be reimbursed for lodging, the traveler must stay on-base whether it is efficient or not. Further, in temporary travel when team integrity is essential, the mission may preclude employees staying in available government lodgings. To maintain team integrity under current law when quarters are adequate for only the less senior members of the team, quarters must be determined ''not available'' for each member of the team, imposing an unnecessary administrative cost.

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

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

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Section 615 would repeal the delay of the military retired pay Cost of Living Adjustment (COLA) that currently is scheduled for Fiscal Year 1998 and that prohibits payment of such increase for months before September 1998. This section also would repeal the conditional provision that provides that the Fiscal Year 1997 COLA will not be payable any later than the COLA for retired Federal civilian employees. Accordingly, under this section, the Fiscal Year 1998 military retired pay COLA will be payable for all months in which it is effective.

Section 616 amends section 1065(a) of title 10, United States Code, to give members of the Retired Reserve who would be eligible for retired pay but for the fact that they are under 60 years of age (gray area reservists) the same priority for use of morale, welfare, and recreation (MWR) facilities of the military services as members who retired after active-duty careers.

Currently, section 1065(a), enacted in 1990, gives the retired reservists the same priority as active-duty members. They, therefore, have preference over members who retired after serving on active duty for 20 years or more. This section amends the current section 1065(a) by revising the last sentence to correct this inequity.

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

Section 617 amends subsection (d) of section 501 of title 37, United States Code, to authorize survivors of members of the uniformed services to receive a payment upon death of a member for all leave accrued. It would take effect on October 1, 1996.

Subtitle E—Other Matters

Section 620(a) amends section 1201 of title 10, United States Code; subsection 620(b) amends section 1202 of title 10; and subsection 620(c) amends section 1203 of title 10. The purpose of this amendment is to extend disability coverage for persons granted excess leave under section 502 of title 37, United States Code. Subsection (d) provides that this amendment will take effect on the date of its enactment.

The purpose of section 620 is to provide members of the United States Marine Corps who are participating in an educational program leading to designation as a judge advocate while in an excess leave status under section 502(b) of title 37 the disability benefits under sections 1201, 1202, and 1203 of title 10 that accrue to servicemembers who are entitled to basic pay. Servicemembers on active duty for 30 days or more are entitled to disability benefits under those sections of law only if disabled while entitled to basic pay. Except as provided in section 502(b) of title 37, an individual who is granted excess leave by the Secretary of the military department concerned under section 502(b) of that title is not entitled to basic pay as long as the member is in that status. If such an individual were to incur any disability while on excess leave, he or she would not be entitled to any of the benefits provided under the provisions of sections 2101, 1202, and 1203 of title 10.

Currently, the only members of the Department of Defense that would be affected by the proposed legislation are those enrolled in the Marine Corps Excess Leave (Law) Program. The U.S. Marine Corps has used this program as an accession source for judge advocates since 1967. Selected regular officers having between two and eight years of commissioned service are authorized by the Secretary of the Navy to be placed on excess leave under section 502(b) of title 37 for the purpose of obtaining a law degree from an accredited law school and designation as a Marine Corps judge advocate. While on excess leave, the officer receives no pay and allowances and must bear all costs associated with subsistence, housing, and tuition. However, the member may use the G.I. Bill and Veterans Educational Assistance Program (VEAP) to defray tuition costs. The U.S. Marine Corps now has twenty-three officers participating in the program and expects to assign an average of six to eight officers during each of the next five years. Officers incur a three-year active duty obligation upon designation as a Marine Corps judge advocate. Retention of these officers on active duty beyond that time is over ninety percent. Officers who fail to complete a law degree and are disenrolled from the program must serve a year on active duty for each year or portion of a year spend in excess leave. However, no one who was selected to participate in this program during the past nine years has been disenrolled.

Officers participating in the Excess Leave Program are still on active duty and maintain their precedence on the active-duty list. They must maintain the high standards expected of commissioned officers. Although no officer has ever been permanently or temporarily disabled while participating in the program, the possibility always exists that such an event may occur. Any officer who might become disabled while participating in this program should be protected in the same manner as members entitled to basic pay are protected as mentioned above.

Although the Excess Leave Program is the only program that now exists in the Department of Defense under the authority of section 502(b) of title 37, this provision of law permits the Secretaries of the military departments to grant excess leave to individuals who might participate in other educational programs. Accordingly, the proposed legislation would provide members of the armed forces enrolled in such programs the same disability benefits that it would provide members enrolled in the Excess Leave Program.

The category of individuals for whom the legislation is intended is clearly distinguishable from those individuals who are not entitled to disability benefits under sections 1201, 1202, and 1203 of title 10 because they are not entitled to basic pay for such reasons as court-martial sentence or placement on excess leave to await administrative discharge in lieu of trial by court-martial. Since an individual who would be protected by the legislation probably will serve a full career on active duty in the armed forces, enactment of the legislation would be in the best interests of both the individual and the Government.

Since the proposed legislation is intended to provide protection to individuals who might become disabled in the future, cost and budget data cannot be determined.

Section 621 would simplify, standardize, and facilitate the processing of orders under the Uniformed Services Former Spouses' Protection Act (10 U.S.C. §1408) and to ensure equitable treatment to all members and former spouses who are subject to the provisions of this law.

The section amends subsection 1408(b)(1)(A) of title 10, United States Code, to allow for service of court orders by facsimile or electronic transmission, ordinary mail, or by personal service. The current law requires personal service by certified or registered mail, return receipt requested. Deleting this requirement and providing for facsimile or electronic transmission will expedite processing of applications by reducing the number of applications that must be returned to the sender for the sole reason that it was not personally served or mailed by certified or registered mail, return receipt requested.

Subsection 1408(e) of title 10 is amended to clarify the jurisdictional requirements relative to court orders issued by states other than the state issuing the original court order and modifying or clarifying the original court orders on which payments under the Act were based. The amendment provides that the court must have jurisdiction over both the member and the former spouse under the same guidelines applicable to members under subsection (c)(4) of section 1408.

Subsection 1408(h)(10)(A) of title 10 is amended to provide an alternative method of determining retirement eligibility in cases where dependents are victims of abuse by members who lose their right to retired pay. The purpose of the amendment is to allow a former spouse, who may not qualify under the current provisions due to the member not yet being retirement eligible on the date the convening authority approves the sentence, to have the option of having the member's retirement eligibility determined at the later point of the member's discharge.

Section 622 would change section 1151, chapter 10 of title 10, United States Code. The changes would revise the legislation to make it more compatible with lessons learned from program implementation and operation. It would eliminate the restriction on providing a stipend to ''early retirees''. Full retirees are authorized to receive the stipend, but because the decision to offer early retirement came after Troops to Teachers legislation, they were inadvertently omitted as being eligible. It also aligns the obligation to teach for two years vice five years with the revised formula for reimbursement which goes from five years to two years. Finally, this proposal reduces the incentive grant from five years with a maximum of $50K to two years and a maximum of $25K.

Section 623. Section 37 USC 411b(a)(1) provides for travel and transportation expenses for members and their dependents who have been ordered to consecutive overseas tours for the purpose of taking consecutive overseas tour (COT) leave. These expenses are reimbursed for an amount not to exceed what it would cost the government to send the member to his/her home of record. This is an important quality of life benefit. It allows members the opportunity to visit relatives and loved ones near their home of record in the continental us before commencing an additional three year tour. This program has a very positive impact on members. It enhances retention, improves morale, and reduces the stress of long separations for members who are serving on the front lines in defense of their country. Few members could afford to make such a trip on their own. This

program also saves money because it reduces the number of overseas moves that the Government has to fund.

Section 37 USC 411b(a)(2) allows a member to defer this travel for up to one year. The one year limitation is beneficial under normal circumstances because it ensures that commanders cannot indefinitely postpone COT leave. However, this limitation becomes a problem for members participating in critical operational missions such as contingencies and humanitarian missions because commanders have the authority to deny leave for operational necessity. Currently, Service members participating in Operation Joint Endeavor will lose their COT leave due to the one year limitation on eligibility. This provision will cure this problem.

Also, with the increased number of contingencies and humanitarian missions that the Department has been conducting since the end of the ''Cold War'' and is expected to conduct in the future, this legislation will have a much broader and beneficial impact. Deferring the one year limitation while members participate in major operational missions will enhance morale, reduce overseas moving costs, and provide commanders with the flexibility they need to conduct major operational missions.

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

Section 624 would authorize the Secretary of Defense, in certain situations, to pay civilian personnel of the Department of Defense stationed outside the United States allowances and benefits comparable to those paid to members of the Foreign Service or other government agencies which routinely place personnel in foreign location assignments.

This section remedies an on-going problem experienced by DoD civilian personnel and their families when on overseas assignment. The issues addressed include: travel for medical care when no suitable facility exists to provide medical care at the duty location, travel of an attendant for the employee or family member who is too ill or too young to travel alone, rest and recuperation travel for employees and their families stationed at locations designated by the Secretary of State for such travel, round trip travel in emergency situations involving personal hardship. These benefits are detailed at title 22 U.S.C. §4081.

This provision also authorizes the Secretary to designate DoD employees stationed overseas as eligible for participation in the State Department health care program described at title 22 U.S.C. §4084.

The enactment of this Bill will affect the current administrative guidance contained in the State Department Foreign Affairs Manual (3 FAM 680 and 681.1). No judicial, executive or Administrative provisions would be overturned or affected by this change. Minor modifications may have to be made to the State Department Foreign Affairs Manual as stated above.

TITLE VII—HEALTH CARE PROVISIONS

Section 701 would revise the amendment made by section 731 of the National Defense Authorization Act for Fiscal Year 1996 to section 1079(h) of title 10, United States Code. The proposed revision is needed to permit health care providers who are not participating in the TRICARE network to be paid higher amounts than now permitted by section 1079(h) in the limited circumstances in which they might provide care to TRICARE Prime enrollees. This revision would have the important effect of protecting TRICARE Prime enrollees from ''balance billing'' by such providers. As is standard for Health Maintenance Organizations (HMOs), enrollees receive most care from network providers, but in limited circumstances receive covered services from nonparticipating providers (for example, emergency care). The proposed revision provides authority that would also apply in another limited circumstance: when enrollees are referred to a non-network provider in cases in which no network provider is available (for example, for specialties in limited supply in certain areas).

Section 702 would establish new alternatives in cases of members of the Health Professions Scholarship and Financial Assistance Program who do not or cannot complete their active duty service obligations. Under current law (10 U.S.C. 2123(e)), the only available alternative is ''assignment to a health professional shortage area designated by the Secretary of Health and Human Services.'' This alternative has never been used because neither DoD nor the Department of Health and Human Services has an effective mechanism to administer such an alternative obligation. Under the proposed section, there would be four options for alternative obligations for the member: (1) a reserve component assignment of a duration twice as long as the remaining active duty obligation; (2) service as a health professional civil service employee in a facility of the uniformed services; (3) transfer of the active duty service obligation to an equal obligation under the National Health Services Corps (similar to the probable intent of the current authority); or (4) repayment of a percentage of the total cost incurred by DoD under the program equal to the percentage of the member's total active duty service obligation being relieved, plus interest. Subsection (b) of the proposed provision would amend current law (10 U.S.C. 2114) to establish extended service in the Selected Reserve or as a civil service employee as alternatives to active duty service for graduates of the Uniformed Services University of the Health Sciences who do not or cannot complete their active duty service obligations.

Subsection (c) of the proposed section 703 would provide that the provision take effect with respect to individuals who first become members of the program or students of the University on or after October 1, 1996. Subsection (d) would provide for a transition under which, member already receiving (as of October 1, 1996) a scholarship or financial assistance or individuals who already are students of the University, or for those already serving an active duty obligation under the program or as a graduate of the University, the applicable alternative obligations would be available, but only with the agreement of the member.

Section 703 would facilitate a continuation of the long-standing practice of assignment of a number of Public Health Service (PHS) officers to duty in the Department of Defense (DoD). Such officers have served with distinction in DoD, including with the Office of the Assistant Secretary of Defense (Health Affairs) and the Joint Staff. However, tightening PHS officer end-strength limitations now jeopardize these arrangements. The provision would permit the exclusion from PHS end-strength limitation of the PHS officers assigned to DoD. This provision is modeled after 42 U.S.C. section 207(e), which excepts up to three flag officers assigned to DoD from the PHS flag officer limitation.

Section 704 would repeal section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section also would repeal the provision enacted by section 738 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106, February 10, 1996) that generally prohibits prepaid abortions in overseas facilities.

Section 705 would replace section 1074a of title 10, United States Code, in order clarify the medical and dental care members of the Reserve are entitled to while in a duty status or traveling directly to and from their duty location. The amendment defines the entitlement to medical and dental care for Reserve component members in a specific military duty status and the authority to continue such care until the member is returned to full military duty, or if unable to return to military duty, the member is processed for disability separation in accordance with chapter 61 of title 10 U.S.C. It further clarifies that Reserve component members on active duty, active duty for training, annual training, full-time National Guard Duty or traveling directly to or from such duty may request continuation on Active duty while hospitalized and that all members receiving care are eligible to apply to receive pay and allowances in accordance with subsection 204 (g) and (h) of title 37 U.S.C.

Section 706 would amend sections 1074a, 1204 and 1481 of title 10, United States Code, and sections 204 and 206 of title 37, United States Code by providing reservists performing inactive duty training the same death and disability benefits as active duty members. Although previous authorization bills have corrected some of the inequities, there are still instances when a reservist is not covered for certain disability or death benefits if the occurrence happens after sign-out between successive training periods. This proposal would extend death and disability benefits to all reservists from the time they depart to perform authorized inactive duty training until the reservist returns from that duty. Reservists who return home between successive inactive duty training days would be covered portal to portal only.

TITLE VIII—ACQUISITION AND RELATED MATTERS

Section 801. Repeal of chapter 142 of title 10, United States Code, would end the requirement that the Department of Defense, through the Defense Logistics Agency, administer the Procurement Technical Assistance Cooperative Agreement Program. Currently, Procurement Technical Assistance centers are providing services to many of the same clients served by the Small Business Administration's Small Business Development Centers. This has occurred because Small Business Development Centers were offering procurement assistance to clients before the Defense Logistics Agency began the Procurement Technical Assistance Cooperative Agreement Program in 1985 and there is no restriction on awarding Procurement Technical Assistance Cooperative Agreement Program funding to Small Business Development Centers. Since 1985, the Procurement Technical Assistance Cooperative Agreement Program has evolved from a Department of Defense-only program to one that encourages Procurement Technical Assistance centers to assist businesses desiring knowledge on the methods for selling to any federal, state or local government agency, which is clearly a Small Business Development Center function. As a result, the Defense Logistics Agency has incurred staffing costs to award and administer cooperative agreements for a service that is already, or could easily be, provided and managed by the existing Small Business Development Center organization of more than 900 offices operating in all 50 states.

A key goal of the Federal Acquisition Streamlining Act of 1994 and other acquisition reform initiatives is to resolve the differences between Department of Defense acquisition procedures and other federal agency procedures and commercial procedures.

At this time, the descriptions of Procurement Technical Assistance Cooperative Agreement Program functions are essentially the same as procurement-related Small Business Development Center functions. If the Small Business Administration is funded by Congress, the programs may be merged and acquisition streamlining may be achieved without a loss of services to businesses in need of assistance or advice on marketing of their services. Additionally, cost savings would be realized due to the decreased administrative and oversight costs.

The Department of Defense Inspector General is scheduled to issue a report which will recommend that program responsibility for the Procurement Technical Assistance Cooperative Agreement Program be moved from the Department of Defense to the Small Business Administration. This report will also recommend that Congress not fund the Defense Logistics Agency for administration of the Procurement Technical Assistance Cooperative Agreement program, but instead, add sufficient funding to the Small Business Administration's budget to ensure that continuation of procurement assistance at Small Business Development Centers in all 50 states and the District of Columbia, especially in counties with high rates of unemployment.

We have conferred with the Director of Small and Disadvantaged Business Utilization, who strongly supports this initiative. He has discussed the issues with and received favorable reaction from appropriate officials within the Small Business Administration.

Section 802 clarifies the authority for requestioning and lease of General Services Administration motor vehicles for use in the training and administration of the National Guard. The United States property and Fiscal Officer for each state or other jurisdiction would be identified as the requisitioning authority for leasing vehicles to be furnished to the state National Guard. Such use of GSA vehicles has been made for many years. This provision would provide a clear statutory basis for this practice.

Section 803 would conform the period established for mentors to provide developmental assistance under the program to the revised period established for new admissions into the program.

Section 824 of the FY 1996 Defense Authorization Act provided a one year extension to the period for eligible businesses under the Mentor-Protégé Program to enter into new agreements. This was the second extension to the entry period, a prior one year extension having been provided in the FY 1994 Defense Authorization Act. The current ending date for entry into the program is 30 September 1996.

While the period for entry into the program has been extended, no similar revision has been made to the date established for ending the period during which mentors may incur costs furnishing developmental assistance under the program, currently also 30 September 1996. For the objectives of entry period extensions to be met, a conforming two year revision to the period authorized for mentors to incur costs is also required. This revision is needed to allow for the establishment and execution of meaningful agreements between the potential mentors and proteges. Likewise, without this revision, the extension of the period for entry into the program is of little value to potential mentor-protégé agreements, if the period of time the mentor can incur costs is also not extended.

The Department has budgeted and allocated $30 million to spend on costs incurred through September 30, 1996, but the full amount of these costs will not be incurred until September 30, 1998. The costs incurred by this initiative will not exceed the amount already allocated.

Section 804 would extend the authority to enter into prototype projects under section 845 until September 30, 1999. It would expand use of the authority to the Military Departments and other defense components designated by the Secretary of Defense. It would authorize the Secretary of Defense to determine procedures for determining whether to conduct a follow-on production program to a prototype project and prescribe the acquisition procedures applicable to such follow-on acquisition. It would clarify that use of this authority is for the conduct of acquisition experiments and vest maximum flexibility in the component exercising the authority. These changes do not authorize any new programs but impact the procedures under which approved prototype projects and follow-on acquisition programs may be executed. While the flexibility provided by these programs may result in budget savings they cannot be determined at this time.

Section 805 would repeal the Congressional reporting requirements applicable to agreements entered into under the authority of section 2371, title 10, United States Code. Section 2371 is reorganized by removing authority concerning cooperative research and development agreements entered into by federally funded research and development centers and reenacting such authority in a separate section. Business and technical information submitted to the Department on a confidential basis in order to obtain or perform a cooperative agreement or other transaction will be exempted from public disclosure for five years. Deletion of the reporting requirement will result in a small but undetermined budgetary savings.

Section 806 would correct a technical flaw in the law that prevents payment of valid contractor invoices properly chargeable to line-item appropriations canceled by the Account Closing Law when the Corresponding line-item is discontinued in subsequent current appropriations acts. For example, the Department currently lacks the legal authority to pay such invoices incurred for the FFG ship program because of the line-item nature of the Shipbuilding and Conversion, Navy (SCN) account and the absence of a current FFG line item. Existing law at 31 U.S.C. 1553 (b)(1) states;

''. . . after the closing of an account under section 1552(a) of 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to *any current appropriation account of the agency available for the same purpose.*'' (Emphasis added)

For line-item appropriation accounts like SCN, this means that payments from a canceled account may only be charged to the corresponding ship line-item account currently available for new obligations. If a current shipbuilding program no longer exists, there is no longer a source of funds ''available for the same purpose.''

Section 807 restates the policy of 10 U.S.C. 2462 to rely on the private sector for supplies and services necessary to accomplish the functions of the Department of Defense. The provision authorizes the Secretary of Defense, notwithstanding any provision of title 10, United States Code, or any statute authorizing appropriations for or making appropriations for, the Department of Defense, to acquire by contract from the private sector or any non-federal government entities, commercial or industrial type supplies and services to accomplish the authorized functions of the Department. The Secretary shall use the procurement procedures of chapter 137 of title 10, United States Code, in carrying out this authority, but in the procurement of such supplies and services the Secretary may limit the place of performance to the location where such supplies or services are being provided by federal government personnel. This proposal would overcome existing statutory encumbrances on privatization. It also would facilitate privatization in place, thereby reducing the impact on affected federal government employees.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

Section 901 is a technical amendment to reflect the proper title of the United States Element, North American Aerospace Defense Command. It is consistent with the 1991 amendment to section 166a(f) of title 10, United States Code. Subsection (a) of the amended provision states the name of the command as the North American Air Defense Command in each of its three paragraphs. It is noted once in each paragraph. If enacted, the proposal will not increase the budgetary requirements of the Department of Defense.

Section 902 would amend section 172(a) of title 10, United States Code, to permit qualified civilian employees of the Federal government to serve as board members on the ammunition storage board which is currently named the Department of Defense Explosives Safety Board. Section 172(a) currently limits the board membership to ''officers'' who, in accordance with the definition set forth in section 101(b)(1), must be commissioned or warrant officers and not civilian employees. This limitation restricts the Secretaries of the military departments from selecting the most qualified person available to represent their departments. In the area of explosive safety, expertise and corporate continuity invariably reside in Department of Defense civilian personnel. To ensure the Secretaries of the military departments have the flexibility to be represented by the most qualified professional available, the option to select civilian board members is imperative.

Section 903 would remove the Secretary of the Army from membership on the Foreign Trade Zone Board. The Department of the Army has been involved in the Foreign Trade Zone Board since passage of the Foreign Trade Zone Act in 1934. At that time, most import-export trade was through waterborne commerce, and, because of the Corps of Engineers navigation role in harbor development, the Secretary of the Army was made a member of the Board.

Although there may have been good rationale for Army involvement in 1934, the nature of the zone activities has since changed. More frequently, foreign trade zones (FTZ) are being established away from deep water ports in favor of land border crossings and airports. In addition, current FTZ issues usually involve trade policy, customs collection, competition among domestic industries, and the impact of proposed zones on existing businesses, rather than matters of interest to the Corps of Engineers, such as engineering, construction, and environmental impacts.

While this proposal would minimize involvement of the Department of the Army and the Corps in routine FTZ activities, the Corps would still be available to lend its expertise in engineering, construction, and environmental related issues on a case-by-case basis.

Subtitle B—Financial Management

Section 910 would modify the authorization and appropriation of the Environmental Restoration, Defense Account. As proposed, the

legislation would change the existing authorization of one central transfer account by providing additional transfer accounts for each of the Military Departments. The legislation would also provide for the direct appropriation of Environmental Restoration funds into these newly established transfer accounts.

The proposed legislation is required to implement the Department's decision to devolve the Environmental Restoration Program to the Military Departments. Devolving the account to the Military Departments will involve them more directly in validating the cleanup efforts and balancing the cleanup program with other military requirements in the budget preparation.

Section 911 would amend chapter 31 of title 10, United States Code, to authorize the expenditure of appropriated funds to provide small meals and snacks at recruiting functions for members of the Delayed Entry Program, others who are the subject of recruiting efforts for the reserve components, influential persons in communities who assist the military departments in their recruiting efforts, military and civilian personnel whose attendance at such functions is mandatory, and other persons whose presence at such functions will contribute to recruiting efforts. The primary persons who will attend recruiting functions where small meals and snacks will be provided are persons in the Delayed Entry Program and reserve component recruiting programs. The authority will be used sparingly and the cost is neglegible. These recruiting functions result in more motivated recruits, decreased attrition in the programs while recruits finish school, and referral sources for future recruits.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Section 1002. Section 2608 of title 10, United States Code, (the Defense Cooperation Account) currently authorizes the acceptance of contribution of money and real or personal property for any defense purpose. The amendment would allow the United States to accept housing or other services on the same basis that real or personal property now can be accepted.

Section 1003 would amend section 101(b) of the Sikes Act (16 U.S.C. 670a) to authorize the transfer of fees collected on a military installation for hunting and fishing permits. Under the Act, the Secretary of Defense is authorized to carry out a program involving wildlife, fish, game conservation and rehabilitation for each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior, and the appropriate state agency. The plan may authorize commanding officers of reservations to act as agents of the state concerning and collect fees for state hunting and fishing permits. The fees would be retained locally and used only for conservation and rehabilitation programs agreed to under the plan. Subsection (b)(4)(B) of the Sikes Act provides that the fees collected may not be expended except for the installation on which the fees were collected. Many military installations are now being closed and the Act does not address the disposition of fees that have been collected for these installations. This section would authorize the transfer of those fees to another open installation for the conservation and rehabilitation purposes expressed in the Act. The section would impact on Treasury receipts. The funds are modest but valuable on individual military installations.

Section 1004 would amend section 3342 of title 31, United States Code, to allow DoD disbursing officials to cash checks for U.S. Federal credit unions operating at DoD invitation in foreign countries where contractor-operated military banking facilities are not available.

Italy and Spain historically have not permitted U.S. military banking facilities to operate within their borders. Although certain U.S.-chartered Federal credit unions have been allowed to operate branches in those countries at the invitation of the DoD, often they have obtained operating cash through DoD disbursing officials. That practice must be discontinued because it has been determined to be beyond the scope of the disbursing official's authority under title 31 of the United States Code.

U.S.-chartered Federal Credit union branches in Italy and Spain currently provide the most comprehensive and accessible U.S.-style retail financial services for military installations in those countries. Without these credit unions, military and civilian personnel assigned in Italy and Spain might be denied U.S.-style retain financial services. Accordingly, this is a significant and urgent quality-of-life issue. Although title 31 currently authorizes disbursing officials to cash checks and provide exchange services for Government personnel, those services do not approach the range of services the credit unions can provide. Furthermore, Service resources already are stretched to such an extent that generally it is not feasible to devote disbursing officials to the enormous task of cashing checks for individuals. It is more efficient simply to sell cash to the credit unions and allow them to provide retail financial services.

This amendment is of equal import to each of the services in order to maintain accessible banking services on all installations overseas.

Section 1005. Subsection (a) of this section amends section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526, as amended; 10 U.S.C. 2687 note) by replacing the reserve account established in the United States Treasury with the Commissary Surcharge Fund or a Department of Defense nonappropriated fund account designated by the Secretary of Defense, as applicable. It also eliminates the requirement for an advance appropriation before funds placed in this account are expended.

Subsection (b) of this section makes conforming amendments to section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, as amended; 10 U.S.C. 2687 note).

Subsection (c) of this section makes conforming amendments to section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510, as amended; 10 U.S.C. 2678 note).

Subsection (d) of this section defines the term ''proceeds'' to be consistent with the amount currently available for expenditure for the Base Closure and Realignment account without further appropriations action.

Subtitle B—Civilian Personnel

Section 1010 would amend section 1595(c) of Title 10, United States Code, to add a new paragraph (4) to include the English Language Center of the Defense Language Institute. This would have the effect of correcting an earlier omission (the English Language Center should have been added with the Foreign Language Center) and allowing the Secretary of Defense to employ civilians and prescribe faculty compensation. The English Language Center currently is severely restricted in classifying job positions and providing appropriate faculty compensation. This is having an adverse impact upon our ability to recruit, develop and retain English-as-a-second-language instructors in fulfillment of the DoD security assistance mission, to include the key English language training component of the Partnership for Peace program. By revising the authority of section 1595, the English Language Center will be allowed, as the Foreign Language Center, National Defense University, and George Marshall Center currently are allowed, to establish a personnel system that truly meets their need to establish job series that correspond with their mission and to compensate faculty accordingly.

There are no cost implications with this amendment.

Section 1011 would amend section 1595, title 10, United States Code, to authorize the Asia-Pacific Center for Security Studies to employ and compensate its civilian faculty, including the Director and Deputy Director.

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

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

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

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

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

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

Section 1012. Currently, article 143(c) of the Uniform Code of Military Justice (10 U.S.C.

943(c)) authorizes the United States Court of Appeals of the Armed Forces to make excepted service appointments to attorney positions in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character. This proposal would extend the authority to cover appointments to non-attorney positions established in a judge's chambers which presently are made under the Schedule C, excepted service authority of 5 C.F.R. 213.3301 for positions of a confidential or policy-determining character. This would consolidate the court's appointing authorities and eliminate the administrative efforts currently required to obtain U.S. Office of Personnel Management approval for any new or changed position in a judge's chambers. As a note, Schedule C authority is automatically revoked upon vacancy, thereby requiring approval of both the position establishment and appointment.

Under this proposal, the United States Court of Appeals for the Armed Forces could make appointments to attorney positions established in the court and to non-attorney positions established in a judge's chambers. The non-attorney positions established in a judge's chambers would include such positions as personal and confidential assistant, secretary, paralegal, and law student intern which provide direct, confidential support to a judge These positions are relatively small in number (i.e., typically would not include other non-attorney positions outside a judge's chambers for which employment in the competitive service remains appropriate. The proposal is cost neutral since the administrative paperwork in terms of the number of positions envisioned is not significant; however, a more timely and streamlined process will result.

Section 1013. Section 1032 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429) requires the Secretary of Defense to convert 10,000 military positions within the Department of Defense to civilian positions. A military position is one noted as being authorized to be filled by a member of the Armed Forces on active duty.

The Secretary of Defense is cognizant of his management requirements and of the costs of military personnel *vis a vis* civilian personnel. Because of the unique activities and operations of the Department of Defense, many positions require the skills, experience, and knowledge of members of the Armed Forces. The Department has an optimum balance of military and civilian manpower in its current structure, and any non-programmatic numerical adjustment will only serve to upset that balance.

Subtitle Miscellaneous Reporting Requirements

Section 1020 would amend Section 10541(b)(5)(A) of Title 10, United States Code, to delete the requirement to break out the full war-time requirement of each item of equipment over successive 30-day periods following mobilization. The requirement to show the full war-time requirement and inventories of each item of equipment will remain in law. Under current war planning methodology to respond to multiple major regional contingencies, a fixed approach employing 30-day increments is no longer applicable. In the post-Cold War environment, the requirement for flexible design and employment of responses renders rigid 30-day increment planning out of date.

Section 1021. The purpose of the proposed legislation is to amend the statutory requirement for an Annual Report on Strategic Defense Initiative (SDI) programs to reflect the current Ballistic Missile Defense (BMD) mission.

The Annual Report to Congress provides congressional committees with an assessment of the progress of the Ballistic Missile Defense Organization (BMDO) in fielding a ballistic missile defense and a road map that BMDO intends to follow for the future. The statutory provision, which prescribes an Annual Report, requires the BMDO to report on actions that are no longer pertinent to the direction of the BMD program and the current world situation. This proposed legislation would amend those requirements to reflect the current mission of BMDO.

Sections 224(b)(3) and 224(b)(4) require that the Annual Report to Congress detail objectives for the planned deployment phases and the relationships of the programs and projects to the deployment phases. The deployment phases were germane when the SDI was developing a system to be fielded in phases, with each phase (after phase 1), designed to offset expected Soviet countermeasure and add to U.S. ballistic missile defensive capabilities. The current focus of the BMDO program is to field improve theater missile defense systems and maintain a technology readiness program for contingency fielding of a national missile defense. The concept of phased additions to offset Soviet countermeasures and provide large incremental improvements to U.S. ballistic missile defense capabilities no longer exists.

Section 224(b)(7) requires an assessment of the possible Soviet countermeasures to the SDI programs. With the demise of the Soviet Union and the shift in focus of the BMD program to fielding theater missile defense systems, this requirement is no longer applicable.

Section 224(b)(9) and 224(b)(10) require details on the applicability of SDI technologies to other military missions. The missions addressed have largely become the primary focus of BMDO and reporting how SDI technologies could be applied to other military missions is no longer relevant. These two subparagraphs should be repealed, as they are redundant with reporting the status of today's BMD.

Enactment of the proposed legislation will not result in any increase in budgetary requirements. Our analysis of the costs incurred and the benefits derived is that this legislation is budget neutral.

Section 1022 would repeal the requirement at 10 U.S.C. 2706(c) for the Department to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 100 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms.

The Department recommends repeal of this statutory reporting requirement because the data collected are not necessary, or even helpful, for properly determining the allowableness of environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on any other categories of contractor overhead costs. As a minimum, if repeal is not feasible, the law should be amended to limit data collection to the top 20 defense contractors, which would still capture most environmental response action cost reimbursements by DoD.

This reporting requirement is very burdensome on both DoD and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 100 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. Contractor personnel at these numerous locations must collect the required data (which is not normally categorized in this fashion in contractor accounting systems); the cognizant DoD administrative contracting officers must request, review, assemble, and forward these data through their respective chains of command; the Defense Contract Audit Agency must validate the data submitted; and the Secretary of Defense's staff must consolidate this large amount of data into the summary report provided to Congress. We estimate that more than 20,000 hours of contractor and DoD effort were required to prepare the Department's February 6, 1995 report.

In addition, the summary data provided to Congress in the February 6, 1995 report did not show large amounts of contractor environmental response action costs being reimbursed on DoD contracts. For overhead rate proposals settled in FY93, the DoD share of such costs was approximately $6 million for that year's top 100 defense contractors; while for FY94 settlements, the comparable figure was approximately $23.6 million—with $17.9 million of that being attributable to the settlement of a single long-standing, multi year dispute at one contractor location.

Section 1023 would repeal the requirement at 10 U.S.C. 2391 note (Section 4101 of Public Law 101–510) that the heads of appropriate Federal agencies promptly notify the appropriate official or other person or party that may be substantially and seriously affected as a result of defense downsizing.

This provision requires that notices be sent to a long list of officials, persons or other parties if: (1) the annual budget of the President submitted to Congress, or long-term guidance documents, or (2) public announcements of base or facility closures or realignments, or (3) cancellation or curtailment of a major contract will have a serious and substantial affect. Determining every community, business and union that may be significantly adversely affected by any of these actions is almost impossible to accomplish. The information does not exist to determine every city, county, state, company and union that may be significantly adversely affected by any action taken under one of the three categories listed in the law. In addition, recipients may be unnecessarily confused by potentially incorrect notices because the budget of the Department that is passed by the Congress is very different from the budget that the President submits. Also, the Department can not predict the actions that every company or community may take in response to Congressional funding decisions. One budget action may have offsetting affects of another budget action and only the community or the company will be able to determine a best course of action. The decision not to fund military construction in one community versus another may have an adverse employment affect. Attempting to make these determinations means that some notices may be sent incorrectly for events that never happen and some places and groups will be left out—both events causing considerable unnecessary stress and disruption to the cities, towns, companies, families and individuals that receive them. The intent to provide places and people with advance notice and information about Defense-prompted employment declines can not be accomplished fairly and equitably by this requirement and therefore, should be repealed.

This section would also repeal the notification requirement (section 4201 of Public Law 101–510) that the Secretary of Defense provide the Secretary of Labor information on any proposed installation closure or substantial reduction, any proposed cancellation of or reduction in any contract for the production of goods or services for the Department of Defense if the proposed cancellation, closure, or reduction will have a substantial impact on employment. The current requirement is that large prime or subcontractors

notify the Department of Defense whenever a downsizing action of the Department will have a substantial and serious adverse employment impact. This is a burden to the Department and its contractors.

Since the requirement to implement this provision has been in place in the Federal Acquisition Regulations in 1992, there have been only four notifications made by contractors. The requirements of the law are confusing, overlapping, and narrowly defined. Many worker reductions are not in response to Department of Defense actions but rather are as a result of the overall downsizing of the defense industry. Many contractors have multiple contracts with the Department of Defense. Although some contracts may be canceled, others may be increasing thereby offsetting the adverse affects of a particular cancellation. Only the company can make the decisions about necessary work force requirements. Such decisions often are not tied to a specific action such as a particular cancellation. The statutory requirement is not resulting in the advance notice requirements being made regarding layoffs.

Subtitle D—Matters Relating to Other Nations

Section 1025 would change section 401 of title 10, United States Code, to authorize the Department of Defense to:

To use funds appropriated for Overseas Humanitarian, Disaster, and Civic Aid to cover the costs of travel, transportation and subsistence expenses of personnel participating in such activities and to procure equipment, supplies and services in support of or in connection with such activities.

To transfer to foreign countries or other organizations equipment, supplies, and services for carrying out or supporting such activities.

Such changes would allow the Department of Defense to continue to carry out its humanitarian demining program, one of the unified commanders' most visible and cost-effective peacetime activities. The program is particularly important given the worldwide attention that has been focused on landmines and the need to remedy their effect on civilian populations in affected countries.

Subtitle E—Other Matters

Section 1030. The Department strongly supports the policy objectives of Chapter 148, National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion. As noted in Industrial Capabilities for Defense, forwarded to Congress on September 29, 1994, the Department has initiated a coordinated effort to identify and analyze industrial concerns, and ensure technology and industrial issues are effectively integrated into its key budget, acquisition, and logistics processes. However, the Department believes that the objectives of Chapter 148 would best be met by performing the analyses and establishing only the organizations necessary to support the Department's key budget, acquisition, and logistics processes. Therefore, the Department is proposing the following changes.

Subsection (a) amends section 2502 of title 10 by revising the responsibilities of the National Defense Technology and Industrial Base Council (NDTIBC) to conform to our proposed amendments to section 2505 below.

Subsection (b) amends section 2503 of title 10 by deleting various references to the National Defense Technology and Industrial Base Council and section 2506 periodic plans; (2) deleting subsections (a)(2), (a)(3) and (a)(4) dealing with administration of the National Defense Program for Analysis of the Technology and Industrial Base and coordination requirements; and (3) deleting subsection (b) dealing with supervision of the program.

Subsection (c) amends section 2505 of title 10, establishing specific requirements for Department of Defense technology and industrial capability assessments. In particular, it requires the Secretary of Defense to prepare selected assessments through fiscal year 1998 to attain national security requirements, and describes the scope of the required assessments. This subsection also requires that such assessments be fully integrated into the Department's resource planning guidance.

Subsection (d) amends section 2506 of title 10 to substitute revised language which requires the Secretary of Defense to issue guidance to achieve national security requirements. It also requires Departmental senior-level oversight to ensure technological and industrial issues are integrated into key budget decisions. Finally, it requires a Department report to Congress on its implementation of industrial base policy.

Subsection (e) adds a new section 2508 to title 10 which requires an annual report to Congress, for 2 years commencing March 1997 to enable Congress to monitor technology and industrial issues. The report would include descriptions of the Department's policy guidance, the methods and analysis used to address technological and industrial concerns, and assessments used to develop the Department of Defense's annual budget; it would also identify any programs designed to sustain essential technology.

Subsection (f) amends section 2514 of title 10 to remove the requirement for the Secretary of Defense to coordinate the program to encourage diversification of defense laboratories with the National Defense Technology and Industrial Base Council.

Subsection (g) amends section 2516 of title 10 to place the responsibility with the Secretary of Defense for establishing the Military-Civilian Integration and Technology Advisory Board.

Subsection (h) amends section 2521 of title 10 by removing subsection (b) which refers to the relationship of the National Defense Manufacturing Technology Program to the National Defense Technology and Industrial Base Plan.

Subsection (i) makes conforming repeals of sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2315).

Subsection (j) makes clerical amendments.

Section 1031 would amend Title II, Section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Title II of Public Law 100–526, U.S.C. 2687 note), as amended by Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160 by restoring inadvertently eliminated provisions of then-subparagraph (3), which in considerably more extended language provided the Defense Department the basic authority for inter Service and similar transfers of real and personal property. The 1994 deletion from the 1988 Act was an inadvertent technical legislative drafting error.

Section 1032. A primate research complex has existed at Holloman Air Force Base for several decades. It originated as an Air Force laboratory supporting the named space program which is what generated the requirement for chimpanzees. It was later operated under contract. The complex consists of a number of buildings and facilities located generally on two separate but relatively close sites on the base. The main structure and the center of the complex is the recently completed facility constructed with $10,000,000.00 in federal grant money provided through the General Services Administration. Virtually all the chimpanzees are housed in the new facility. Because the facility is only a few years old, and because there is no other available facility to house the Air Force owned chimpanzees, it is impractical to remove the laboratory from the base at this time.

The Air Force has not had a requirement for its chimpanzees for at least two decades but has had no significant expenses in maintaining them because they were maintained by the operating contractor at no cost to the Air Force. The contractor used them for scientific and medical research and as part of the National Institutes of Health breeding program for chimpanzees. The breeding program is responsible for the growth in the Air Force owned population over the years.

The current lease provides that any chimpanzees born to Air Force owned animals will become the property of the lessee, not the Air Force. Consequently the Air Force population will not grow; however, the long life of chimpanzees will guarantee the colony will survive for decades to come. The legislation will remove a substantial liability to the Government. The chimpanzees, because of their general age and past use in research, have no significant value as a colony. Estimates the Air Force has received indicate that the only alternative to continuing their current use is to retire them presumably at Government expense. The cost of such retirement has been estimated from tens of millions of dollars up to $100,000,000.00. Nevertheless, if a qualified and capable offeror is willing to assume the care and maintenance of the chimpanzees and the facilities, at no cost to the Air Force, there is no reason to refuse such an entity the option to compete for the facilities and chimpanzees.

Subsection (a) of this section authorizes the Secretary of the Air Force, on a competitive basis and without regard to the requirements of the Federal Property and Administrative Services Act of 1949, to dispose of, at not cost, all interests the Government has in the primate research complex and Air Force owned chimpanzees located at or managed from Holloman Air Force Base. The underlying real property is excluded from transfer. The laboratory was largely built with Government grant funds. The current lessee and operator of the laboratory is the Coulston, Foundation, a not-for-profit entity. The laboratory's location within the Base makes it impractical to create a privately owned enclave inside the Base boundaries by excessing the underlying real property.

Subsection (b) conditions the conveyance by requiring the recipient to utilize the chimpanzees for scientific research, medical research, or retirement of the chimpanzees and provide adequate care for the chimpanzees. The Air Force owned chimpanzees were originally obtained and later bred for scientific and medical research and the new facility was funded for continuation of these purposes.

Subsection (c) provides standard language for a survey to establish the legal description of the property conveyed.

Subsection (d) provides the standard language that the Secretary may require such additional terms as necessary to protect the interests of the United States.

Section 1033 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representatives to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. That amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1034 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical weapons storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representative to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. This amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1035 would amend section 1044a of title 10, United States Code, to authorize all judge advocates of the Armed Forces, adjutants, assistant adjutants, and personnel adjutants, and all other members of the Armed Forces designated by regulations of the Armed Forces, to include members of the Coast Guard, to have the same notary public authority without regard to whether they are on active duty or performing inactive duty for training. All law specialists of the Coast Guard are lawyers. Under the current law, National Guard judge advocates and other otherwise authorized personnel do not have the general powers of a notary public while serving on annual training or on Active Guard and Reserve duty in a full-time National Guard duty status, nor do National Guard and Reserve judge advocates, adjutants, and others have such powers when not in a formal duty status. This amendment would authorize such powers regardless of duty status.

Reserve and National Guard judge advocates and Coast Guard law specialists are asked to perform notarial acts, both on and off duty, and to assist members of the Guard and reserves in preparing for mobilization and deployment. These judge advocates and law specialists are often in a position to prepare and execute Powers of Attorney and Wills at their private offices or at the command where the soldier is located, which may be distant from a military facility. Under the present statute they may not do so unless on active duty or performing inactive-duty for training.

Under the present law, civilians question the notary authority and request verification of duty status in order to assure compliance with section 1044a before accepting the Power of Attorney or other notarized document. The service member often has no way of reasonably discovering the whereabouts of the judge advocate or law specialist and cannot provide such information, resulting in rejection of the document. This proposal will bring uniformity and flexibility among the services in this area and be less confusing to the civilian community. It will eliminate litigation, especially in cases involving wills.

Subsection (b) would ratify notarial acts performed prior to the date of enactment of this section by persons authorized notarial powers under this amendment, provided such acts have not been challenged or negated in a formal proceeding prior to the date of enactment.

Section 1036 would shift the office of primary responsibility for all systems of transportation during time of war from the Secretaries of the Army and the Air Force to the Secretary of Defense. Such a change is in keeping with the integration of transportation systems in the commercial sector to intermodal methods of shipment. DoD, for efficiency purposes, has established a single manager for transportation, the United States Transportation Command. Activation of the Civil Reserve Fleet in time of war is from the President to the Secretary of Defense to the Commander, United States Transportation Command. The need for the Army or the Air Force independently to assume control of transportation systems for its members, munitions, and equipment, especially to the exclusion of the other services can no longer be justified.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by authorizing more centralized control of the DoD transportation system.

Section 1037 would clarify that the period of limitations for the filing of claims before the various Boards of the Military Departments for the corrections of service records (10 U.S.C. 1552(b) of three years, that can be waived by the board ''in the interest of justice'') is not tolled by section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940. Section 205 of such Act was amended by the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 (section 5 of such Act (56 Stat. 770); 50 U.S.C. App. 525). It prescribes that military service is not to be computed in any period limited by law for the bringing of any action or proceeding before a court, board, etc. The recent judicial decision of *Detweiler v. Pena*, 38 F. 3d 591 (D.C. Cir. 1994) applied the tolling provision to the limitation of section 1552(b).

This provision would overturn that court decision and direct the military correction boards to consider the travails of military service in their findings ''in the interest of justice'' in waiving the limitation period. This result is necessary considering that the boards are examining military records. It underscores the need for a prompt resolution of requests for corrections, especially to avoid multiple successive corrections in the examination of records 20 to 30 years after a complained of error.

Section 1038 would update the statutory reference to the name upon which the Navy's central historical activity has operated for more than two decades. The original term was used in 1949 when the trust fund initially was started. Subsequently, the fund has evolved to include, among other things, the Navy Museum and Navy Art Gallery. This is a technical change conforming the statutory reference to the common title.

Section 1039. The George C. Marshall Center was established in 1993 to respond to the new security challenges which emerged at the end of the Cold War: e.g., promoting stability in Europe by helping the nations of Central Europe and the former Soviet Union to develop democratic institutions. The Center's formal mission is to foster the development of defense institutions and security structures compatible with democratic processes and civilian control. As its directive mandates, it does this by (1) providing appropriate defense education; (2) conducting research on security issues relevant to the task; (3) holding conferences and seminars on appropriate issues; (4) providing Foreign Area Officer (FAO) and language training; and (5) supporting NATO activities which are directed toward the same end.

To execute its mission, the Marshall Center conducted programs through three operational components: the College of Strategic Studies and Defense Economics (CSSDE); the Research and Conference Center (RCC); and the Institute for Eurasian Studies (IES). The CSSDE teaches a 19 week in-depth course in English, Russian, and German to future national security leaders in mid-level civilian and military positions from the nations of CE/FSU twice a year. The RCC holds conferences and seminars and sponsors research on issues of importance to current leaders at the ministerial and parliamentarian level from the North Atlantic Community, the nations of the NATO and PfP signatories. The IES trains US and NATO personnel (FAO and language students) who will work in and with these nations in the future. Each element synergistically reinforces the Center's overall objective of reinforcing and accelerating the democratization processes of the security establishments in the CE/FSU nations.

The work of the Marshall Center continues to receive international recognition. The innovative and ground breaking curriculum that teaches about many forms of democracy and looks at the principles that govern defense organization and management, in both western and the emerging democracies in the Central European and Former Soviet Union nations, is being used as a model for other schools. The Marshall Center, in promoting democratic principles and serving as a forum for promoting democratic principles and serving as a forum for European and Eurasian security and stability issues, clearly provides a service that benefits not only NATO countries but also neutral European nations. Both NATO and neutral nations, recognizing the importance and effectiveness of the Marshall Center, have expressed an interest in contributing to the program. From the Marshall Center academic perspective, the more view points that can be offered, the richer and better the program.

In 1994, the Marshall Center was given special permission by Congress to accept contributions from the German government under a formal; ''Memorandum of Agreement''. This arrangement is a tremendous success story. The German contribution of both funding and manpower enhances the conferences and research program and hence the prestige and effectiveness of the Marshall Center. Enabling the Marshall Center to accept contributions from other nations would only serve to further enhance the breadth and quality of the Marshall Center program as it works to strengthen U.S. interests and spread democratic values in the Central and Eastern European and Former Soviet Union nations.

As addressed above, the Marshall Center is an educational institution. In accordance with U.S. strategic interests, it is dedicated to stabilizing and thereby strengthening Post-Cold War Europe. Specifically, the Marshall Center provides education to defense and foreign ministries' officials to develop their knowledge of how national security organizations and systems operate under democratic principles. The Marshal Center program recognizes that even peaceful, democratic governments require effective national defenses; that regional stability will be enhanced when legitimate defense and that a network of compatible democratic security structure will enhance the continent's prospects for harmony and stability.

The Marshall Center additionally seeks to create an enduring and ever expanding network of national security officials who understand defense planning in democratic societies with market economies and to provide those officials with ever greater opportunities to share their perspectives on current and future security issues. The Marshall Center, with its international faculty and students from over 26 nations, and it active conference program serves as an important forum for discussion of European and Eurasian security and stability issues.

Unfortunately, the very nations that can be viewed as perhaps the most in need of what the Marshall Center offers, in both education and as a forum for defense cooperation contacts, are excluded from participation. Inviting national security officials from nations such as Bosnia, Yugoslavia, and Azerbaijan to Marshall Center programs would expose them to the very ideas and changes the U.S. is seeking to influence and promote.

If the U.S. strategic goals of promoting stability through defense cooperation are to be achieved, all the newly emerging governments of the Central and Eastern and States of the Former Soviet Union (CE/FSU) nations must be allowed, even encouraged, to attend and participate in the Marshall Center program. Participation of all CE/FSU nations in the Marshall Center program can only enhance the U.S. objective of increasing the continent's prospects for harmony and stability.

The Secretary of Defense has requested that a Board of Visitors be established to advise him on Marshall Center programs. Distinguished citizens from both the United States and other nations are being asked to participate without compensation other than remuneration for their travel expense to serve on the Board twice a year. Having to make financial disclosures or foreign registration will discourage their participation and make it extremely difficult in recruiting volunteers with exceptional diplomatic experience.

Section 1040 would direct the transfer and exchange of lands between the Departments of Army and Interior, which will allow those departments to more efficiently manage their property and also will provide for the orderly development of additional lands for the benefit of Arlington National Cemetery, which currently is slated for closure to initial interments by 2025.

Subsection (a) of this provision directs the Secretary of the Interior to transfer to the Secretary of the Army lands that are currently under the jurisdiction of the National Park Service (NPS) to the Army for the use of Arlington National Cemetery. On February 22, 1995, the Army and the Department of the Interior entered into an Interagency Agreement for the purpose of ultimately effecting a transfer of these lands. These lands are part of what is known as ''Section 29,'' an area that became part of the National Park System in 1975 when the Army reported the property as excess and transferred it to the NPS pursuant to the Federal Property and Administrative Services Act, subject to a 1964 Order by the Secretary of the Army that it be set aside in perpetuity to preserve an appropriate setting for the Custis-Lee Mansion (subsequently renamed the Arlington House, The Robert E. Lee Memorial) and be maintained in a parklike manner.

Section 29 includes approximately 24.44 acres that are divided into two zones, the approximately 12.5-acre Robert E. Lee Memorial Preservation Zone and the approximately 12-acre Arlington National Cemetery Interment Zone. Because it is unnecessary for the Interment Zone, and possibly portions of the Preservation Zone as well, to be maintained in a parklike manner for the NPS to provide a proper setting for Arlington House, or for the proper administration and maintenance of it and its adjacent buildings as a national memorial, this property may be transferred to the Army for use as part of Arlington National Cemetery.

Under the Interagency Agreement signed on February 22, 1995, the NPS agreed to allow the Army to use the lands in the the Preservation Zone that are suitable for transfer and all lands in the Interment Zone until the transfer is effected, for the purpose of studying and surveying the property and planning for its use as a cemetery.

Subsection (a) directs the Secretary of the Interior to transfer these lands directly to the Secretary of the Army in accordance with the Interagency Agreement.

Subsection (b) of this provision directs the exchange of specific parcels of land located in and adjacent to Arlington National Cemetery between the Departments of Army and Interior. This transfer is designed to meet the respective agencies' needs and will provide for the optimum use of these Federal lands.

Section 1041. The existing language of section 2643, title 10, United States Code, subverts the Department of Defense consolidated contracting for overseas transportation and may result in higher overall costs, with less flexibility and control.

Section 1042. The Sikes Act (P.L. 99–561) permits the use of cooperative agreements to ''provide for the maintenance and improvement of natural resources'' on DoD installations. Similar language is not available to support DoD's cultural resources program.

Cooperative agreements are an essential instrument used to enter into partnerships with other Federal, State, and local governments, and with nongovernmental organizations to share personnel and fiscal resources for the mutual benefit of all participating parties. Partnership opportunities have been lost or deferred because the Military Departments do not feel they can enter into such agreements for cultural resources management, except for Legacy Resource Management Program-funded projects. Furthermore, the Legacy program was established as a short-term enhancement initiative. A broader, more permanent fix is required to ensure stability and inclusiveness of such efforts for DoD's cultural resources management program.

New partnership oppportunities would be available with this legislative change. Resource stewardship on DoD lands would be enhanced. This proposal has no fiscal or budgetary impact to the Department of Defense.

Section 1043 would authorize the President to award the Medal of Honor to seven named African American soldiers who served in the United States Army during World War II. It would authorize the award notwithstanding the time restrictions in section 3744 of title 10, United States Code. Those restrictions require that the award be made within three years of the act justifying the award and that a statement setting forth the distinguished service and recommending official recognition of the service be made within two years after the distinguished service. The Army recently conducted a study of the awarding of the Medal of Honor to African American soldiers during World War II. The waiver of the time limitations for the presentation of the Medal of Honor to the named former soldiers is a result of that study.

Section 1044 would amend section 2543 of title 10, United States Code, to make permanent the temporary authority the Secretary of Defense had during fiscal years 1992 and 1993 to provide assistance to the Presidential Inaugural Committee and to the joint committee of the Senate and House appointed to make the necessary arrangements for the Inauguration of the President-elect and the Vice President-elect. Section 307 of the National Defense Authorization Act for 1992 and 1993 authorized the Secetary of Defense to lend materials and supplies, and to provide materials, supplies, and services of personnel, during that period to the Inaugural Committee and joint committee.

Section 1045 cites a continuing need for military use of the affected lands and sets forth certain definitions.

Subsection (b) withdraws certain federal lands in Imperial County generally known as the East Mesa and West Mesa ranges from all forms of appropriation under the public land laws, subject to existing rights and certain conditions. The lands would be reserved for use by the Navy in accordance with the current memorandum of understanding between the Bureau of Land Management and the Department of the Navy, and for other defense-related purposes consistent with the memorandum.

The provision requires the publication and filing of maps and descriptions of the affected lands, gives those maps and descriptions the same effect as if they were included in the Act, and provides for public inspection.

It would require management of the withdrawn lands by the Secretary of the Interior pursuant to the Federal Land Policy and Management Act and other applicable law, with the concurrence of the Secretary of the Navy. The lands could be managed to permit wildlife protection and management, fire suppression, geothermal leasing by the Department of the Navy and power production and continued grazing. Nonmilitary use could not interfere with military use consistent with the Act. The Secretary of the Interior could issue a lease, easement, right of way, or otherwise authorize nonmilitary use of the lands, with the concurrence of the Secretary of the Navy and under the terms of the cooperative agreement. The Secretary of the Navy would close the withdrawn lands to the public if required by military operations, national security of public safety. Withdrawn lands would be used for purposes other than those specified in the memorandum of understanding, however, the Secretary of the Navy would be required to notify the Secretary of the Interior. Withdrawn lands and minerals within them would be managed in accordance with the existing cooperative agreement, which would be revised as soon as practicable after the enactment of this legislation to implement the provision of the section.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

THE AGGIE BOND IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, as you might expect, as I so often do on the floor of the Senate, I rise to speak about agriculture because it is a very important industry in my State. The legislation that I am introducing today, with Senators PRESSLER and BAUCUS, is bipartisan in sponsorship and changes the treatment of what are referred to as the aggie bond provisions of our tax statutes. We call this the Aggie Bond Improvement Act.

This legislation is important because of the changing scene of agriculture,

the inability of young farmers to get started in farming, and particularly because today the average age of farmers. In my State of Iowa, and I think in most agricultural States, farmers average in their upper fifties. In 5 to 6 years we will have 25 percent of the farmers retiring. Hence, the necessity for improving programs to encourage young people to go into farming is clear. We introduce this bill today for with this purpose in mind.

This legislation will recondition and strengthen the popular first-time farmer programs administered by various State authorities. These authorities issue tax-exempt bonds to finance first-time farmers' loans. This combined agriculture and tax legislation enjoys the company of a companion bill in the House to be introduced by my colleagues from Iowa, Congressman LIGHTFOOT and Congressman GANSKE and the remainder of the Iowa House delegation. Joining me in our efforts in the Senate, as I have already said, are Senators PRESSLER of South Dakota and Senator BAUCUS of Montana. These two Senators are very interested in the problems of agriculture. The problems in their States are similar to those in mine.

We encourage all of our colleagues in the Senate to join us as sponsors in this Aggie Bond Improvement Act. Many beginning farmers and ranchers utilize low-interest loans authorized by aggie bonds to get started in farming and ranching. With the help of State authorities, these usually younger farmers must secure a participating private lender. This is a Government-private sector partnership. This private lender assumes all of the loan risk.

A Federal law limits the use of aggie bonds for first-time farmer purchases and restricts them to a maximum of $250,000 per family, per lifetime. I know that sounds like a lot of money to people that do not understand agriculture, but with that sort of loan you create one job. We are not talking about a massive farming operation with a massive amount of hired help. It takes that much capital to create one job in agriculture because of the nature of the investment.

State laws usually impose additional restrictions in addition to those that we do in the Federal Government. They might do this from the standpoint of net worth, material participation, and residence requirements—all very legitimate requirements. Therefore, there is no risk of any misappropriation of any underlying tax benefit.

These State programs present American taxpayers with a new generation of farmers to ensure that our grocery stores continue to stock the greatest food bargains in the world. However, to fully succeed, the States need the improvements offered by this legislation.

First, cosponsors to this bill will help family members purchase the family farm by changing the current rule prohibiting aggie bond financing for family member transactions.

Senators from agriculture States know that the high startup costs for farming and the unique expertise required of farmers, cooperate to ensure that only the children and family members of present farmers can themselves become farmers. Therefore, disallowing aggie bond financing for family member transactions has operated as an unintended obstacle to the success of aggie bond programs.

Second, cosponsors to this bill will help more first-time farmers become lifetime farmers by allowing more young people to qualify for aggie bond financing. Present law disqualifies beginning farmers who have previously owned and farmed any parcel of land that is 15 percent or more of the median-size of a farm in the same county. Depending on the size of other farms in the county, many young farmers cannot utilize beginning farmer loans because of this restriction. Therefore, this legislation would qualify a beginning farmer who had previously owned and operated any farm that is no more than 30 percent of the average size of a farm in the same county. In Iowa, this means where present law disqualifies an average beginning farmer for having farmed only 35 acres, with this legislation, average beginning farmers can farm up to 100 acres and still qualify for aggie bond financing.

Having been a farmer all of my adult life, I can attest that no farmer can make a living to support even himself on 100 acres, not to mention supporting a family. These persons truly are just starting out in the farming trade and desperately need the first-time farmer's loans financed by these aggie bonds.

Mr. President, farm State Senators know the average age of farmers is increasing. Presently, our farmers in Iowa average in their late fifties. This aging trend is common in every State in this country. Last year, the Iowa Agriculture Development Authority—the authority that issues these aggie bonds in my State along with comparable agencies in about 20-some other States—issued 177 of these loans in my State, and nearly 80 percent of the applicants were under 35 years of age.

Truly, there is an aging generation of farmers still on the land who would like to retire and there is a younger generation of farmers who want to begin. This legislation to improve the State aggie bonds programs simply makes the necessary transactions possible. Seeing these possibilities, the National Counsel of State Agriculture Finance Programs, and a farming organization called Communicating for Agriculture, strongly endorse this legislation. It is also important to note that the Federal Government shoulders absolutely no financial risk in aggie bonds, and their cost, after these improvements, will be minimal.

I urge my colleagues to join me and the other cosponsors of this bill in supporting America's beginning farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD the legislation.

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

S. 1674

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

SECTION 1. EXPANSION OF FIRST-TIME FARMER EXCEPTION.

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) of the Internal Revenue Code of 1986 (relating to exception for first-time farmers) is amended by adding at the end of the following new subparagraph:

''(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person.''

(b) SUBSTANTIAL FARMLAND DEFINITION MODIFIED.—Clause (i) of section 147(c)(2)(E) of the Internal Revenue Code of 1986 (defining substantial farmland) is amended by striking ''15 percent of the median'' and inserting ''30 percent of the average''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

THE EASTERN BAND OF CHEROKEE INDIANS ACT OF 1996

Mr. FAIRCLOTH. Mr. President, I rise today to introduce legislation for the Eastern Band of Cherokee Indians in my home State of North Carolina.

In 1982, the Congress passed legislation that would allow Indian tribes to issue tax exempt bonds just like other units of governments, such as States, counties, and cities. The 1982 act acknowledged that Indian tribes are in fact legitimate units of government with wide ranging responsibilities.

Using the act, the Cherokee Indians in my State issued $31 million in tax-exempt bonds to purchase the Carolina Mirror Co. The tribal leadership viewed the purchase of Carolina Mirror Co. as a means to promote jobs and economic development for their tribe and its members.

In 1986, however, the Congress passed new legislation that narrowed the interpretation of the original act so that tax exempt bonds could only be used to finance ''essential governmental functions.''

Mr. President, the Cherokee Tribe in my State would like to take advantage of lower interest rates and refinance the bonds. Under a ''green eye shade'' view of the law, the IRS has ruled that a refinancing would be a reissue, and the tribe could not issue tax exempt bonds again. By reissuing bonds at a lower rate, the company could save nearly $1 million a year—or nearly half of its annual profit.

In my view, this is as great a savings that can be attained for this company,

but for this narrow interpretation of the law.

The legislation that I am introducing today is a technical bill that would allow Indian tribes to refinance tax-exempt bonds issued on or before October 13, 1987. This bill has safeguards to ensure that the temporary tax-exempt status of the bonds are not taken advantage of. Most importantly, this bill would be revenue neutral.

It is my hope that the Senate could consider this legislation.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

THE CITIZENSHIP PROMOTION ACT OF 1996

● Mrs. BOXER. Mr. President, what do Saul Bellow, Itzhak Perlman, Elie Wiesel, Elizabeth Taylor, Mikhail Baryishnikov, Alistair Cooke, I. M. Pei, Hakeem Olajuwan, Patrick Ewing, and General John Shalikashvili have in common? They're all naturalized Americans, people who came to our country as immigrants and made major contributions to American life after receiving the precious gift of American citizenship.

Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

As a firm believer in the American dream, and as a U.S. Senator whose mother became a naturalized citizen, I am pleased to introduce the Citizenship Promotion Act of 1996 which will put the ''N'' back in INS. This much-needed legislation will reform our current system of naturalization so that it can better serve those who want to follow the rules and become full participants in American society.

California has much at stake in improving the current delivery of naturalization services due to the high number of immigrants in the State who wish to naturalize. The latest surge in naturalization applications submitted is nowhere more evident than here. In fiscal year 1995, an estimated 1 million people applied for naturalization in the United States; over 380,000 of them live in the State of California. This is a 500-percent increase over the totals for fiscal year 1991.

Although Doris Meissner, the Commissioner of INS, is actively addressing the naturalization backlog, the wait for a naturalization application to be processed is still a year or longer in cities such as San Francisco and San Jose. Efforts by INS to cut waiting periods in heavily impacted cities continue to be delayed by lack of funding and outdated agency structures. We owe it to those who patiently follow the rules to do better. That is why my legislation is needed.

The first component of the legislation will create a citizenship promotion agency within INS. Headed by a new associate commissioner for citizenship, the citizenship promotion agency [CPA] will be responsible for carrying out all of the naturalization activities of the INS.

Currently, the INS lumps responsibility for naturalization with their other responsibilities. A separate agency for naturalization within INS will not only elevate the importance of the function but it will clear up the backlog of applications. The naturalization fees will be used to fund the naturalization process only, as they should be.

My legislation further provides for funds in the naturalization examinations fee account to be used for English language instruction. Today, there is an overwhelming need for more English language classes catering to immigrants trying to naturalize. The current availability of such classes is inadequate to meet the growing need for this type of instruction. In Los Angeles, for example, more than 20,000 people are now on waiting lists for English classes.

My legislation recognizes that learning English is not only an important component of naturalization, but also the key to opening all of America's opportunities to our new citizens.

The CPA will be encouraged to enter into cooperative agreements with other Government entities as well as private and nonprofit organizations to help carry out its naturalization outreach responsibilities. This will help maximize the capabilities of organizations that perform valuable naturalization outreach services at the local level.

My legislation also creates a citizenship advisory board to work with the Citizenship Promotion Agency. This board will give INS the benefit of advice and assistance from people with diverse experiences and perspectives on the naturalization process through the issuance of two reports a year.

Many of our most acclaimed Americans have been naturalized citizens. This is particularly true in San Francisco and the bay area. For instance, Lofti Mansouri, director of the San Francisco Opera is a naturalized citizen. Helgi Tommason, the director and choreographer for the San Francisco Ballet, is in the process of becoming one. Leo McCarthy is a naturalized citizen.

The last four Nobel Prize winners at UC Berkeley as well as UC Berkeley Chancellor Chang Lin-Tien and UC Santa Barbara Chancellor Henry T. Yang are all great thinkers and naturalized Americans. Our Nation has bestowed the gift of citizenship on them; they have repaid our culture and society with the priceless gifts of their knowledge and creativity.

These individuals are not only the leading lights in the bay area; they have received accolades the world over for their talents and contributions.

From the people we have invited today, you will hear the stories of what they have been through and what naturalization means to them. And while all of our naturalized citizens are not famous, many of them embody the best of America's traditions and values.

Take the example of Joyce Cheng, a naturalized citizen who came from Hong Kong in 1965 to settle in California's central valley. Ms. Cheng worked at her family's restaurant and two other jobs in order to pay for her education at the University of California at Berkeley. After receiving her degree in sociology, she worked in community service agencies and counseled other newcomers in employment and adjustment to American life.

Later Ms. Cheng joined the financial industry and was credited with building her bank's net worth tenfold in less than 2 years. In 1988 she founded her own successful mortgage loan and financial planning company in Oakland which generates millions of dollars in revenues each year

Ever since she naturalized in 1970, Ms. Cheng has participated in every election and helped encourage her community to be active participants in the democratic process. She serves on over 20 civic and professional boards and organizations.

Or take Eliana Osorio, who immigrated to the United States from Chile in 1963. She overcome the cultural barriers most newcomers face, such as unfamiliarity with English, and raised four very successful American children. Patricia is a graduate of UC Berkeley and will be attending the University of Chicago in the fall to pursue a masters degree in public policy. Mrs. Osorio's son is a photographer for the Chicago Tribune and a graduate of San Francisco State University.

Much like Mrs. Osorio, Felisa Lam came to the United States many years ago to begin a new life. She came to study accounting and remained in America as a legal resident. She founded a printing shop in 1979, after attending a start-up business conference. After 17 years, her San Francisco business, Trans Bay Printing, has grown dramatically. Her clients range from major corporations to local community groups. Her efforts have not only allowed her to claim a piece of the American dream, they have enabled her two children to claim a piece of their own by attending Yale University.

These are only a few short examples of the kind of new citizens who enrich our communities throughout the country. They not only demonstrate the strong work ethic and family values inherent in most of our foreign-born citizens, but also a firm commitment to their civic responsibilities as American citizens.

I am a strong supporter of efforts to regain control of illegal immigration. It must be done at the border and in the workplace. But that effort should not overshadow other responsibilities of the Immigration and Naturalization Service.

My bill will make needed improvements to the often-neglected function

of naturalization, acting as an important balance to proposed immigration reform and remaining true to the promise of the American dream.

Many of us have directly witnessed the contributions of naturalized citizens in our communities and our families. I was fortunate to see in my own home, with my own mother, how much a naturalized American treasured her U.S. citizenship.

After my mother passed away in 1991, I found a very special pouch that she had left for me. In it were this wedding band and a one-page document wrapped in cellophane. It was her naturalization certificate. America was her land, her home. Her papers were all in order—but that one paper in that separate pouch with her wedding band was the one she wanted me to have, and I have saved it to share with her great-grandchildren.●

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY ABOLISHMENT ACT OF 1996

● Mr. GRAMS. Mr. President, I am pleased to be introducing the Department of Energy Abolishment Act of 1996. I do this on behalf of the ratepayers and taxpayers in my home State of Minnesota and across America who have handed over their hard-earned dollars for years in exchange for a bloated bureaucracy. It is for their sake that we embark on this journey to bring real accountability to the Federal Government—the first step is the elimination of the Energy Department.

In 1977, the U.S. Department of Energy, or DOE, was created to address the energy crisis which had paralyzed our Nation throughout that decade. It was assumed then that the creation of a Cabinet-level Energy Department would serve as a preemptive strike against future energy emergencies. But I'm sure that no one who served in Congress at that time envisioned the problems that DOE would create, rather than solve.

I do not doubt that the DOE was established with good intentions, but like many of the relics of the seventies, it has outlived its usefulness and public support. And like many of the outdated and wasteful taxpayer-funded programs of that era, the DOE should come to an end.

In my opinion, there are three main reasons for eliminating the DOE.

First, the DOE serves no real mission.

The DOE was created in response to the energy crisis and to protect us from similar emergencies in the future, a noble cause. Yet, the problems for which the DOE was established to address never materialized. Oil supplies eventually rose while prices dropped. The need for a national energy department became less apparent. Even so, the DOE continued to grow, with its bureaucrats working overtime to justify the Department's existence by branching out into areas only marginally related to national energy policy.

Their effort is readily apparent when you realize that 85 percent of the DOE's budget is spent on activities with no direct relation to energy resources. The bulk of those dollars go toward the cleanup of radioactive waste from nuclear weapons facilities and for overseeing storage of our Nation's nuclear waste—programs better suited respectively for the Defense Department and the Army Corps of Engineers.

I share the sentiments expressed by former Defense Secretary Caspar Weinberger who says: ''The Department of Defense, today, with the appropriate leadership and management, is the best place for responsibility for the nuclear weapons stockpile in all its aspects, to be vested, including clean-up activities. Maintaining a separate chain-of-command, and all associated overhead in DOE is a costly and cumbersome arrangement that we can no longer afford.''

The DOE is also responsible for national energy research—such as the development of alternative energy; promoting energy conservation; and ensuring affordable power and access to it by consumers. But after nearly 20 years and hundreds of billions of tax dollars, the DOE has little to show for it, except a few porkbarrel programs and a lot of excuses.

Second, the DOE has failed to carry out the duties it has been handed.

Perhaps the best example of this failure is the DOE's refusal to address the responsibility to accept and store our Nation's nuclear waste. There are 34 States, including my home State of Minnesota, with nuclear facilities in danger of running out of storage space for their spent nuclear fuel. In spite of this impending crisis and the DOE's legally mandated deadline of accepting nuclear waste by 1998, it has taken no real action in addressing the problem.

Worse yet, through a surcharge on their monthly energy bills, electric utility customers have already contributed $11 billion to a nuclear waste trust fund established to create a permanent storage facility, nearly half of which the DOE has already spent. But as we approach 15 years of inaction on the part of the DOE, the waste still sits, posing a potential environmental risk to the people of Minnesota and across the country.

Finally, the DOE is an affront to the taxpayers who are forced to watch nearly $16 billion of their hard-earned dollars go each year to feed this bureaucratic monstrosity.

It currently takes 20,000 Federal bureaucrats and another 150,000 contract workers to carry out the DOE's agenda. Even in the absence of another energy crisis like that which led to its creation, the DOE's budget has grown by 235 percent since 1977—a particularly alarming figure given our current national debt of over $5 trillion.

In his State of the Union Address, President Clinton declared that ''the era of big government is over.'' And I agree. What better way to carry out this pledge than to start dismantling an agency with no mission, no purpose and no legitimate future? That is exactly what the Department of Energy Abolishment Act does.

As this chart shows, our legislation would dismantle the DOE, while transferring the legitimate functions of government to other agencies and departments. In doing so, it will eliminate DOE's upper-level bureaucracy, saving taxpayers an estimated $19 to $23 billion over 5 years and $5 to $7 billion annually thereafter—a refreshing change for the millions of Americans who filed their tax returns yesterday.

At the same time, it will peel away another level of Federal bureaucracy which has grown at the expense, not benefit, of the taxpayers, while addressing the future energy needs of this Nation.

Most importantly, it will send a clear signal to the American people that Congress heard their message in the elections of 1994 and is prepared to protect the taxpayers by giving them a smaller, more effective Government.

First, the Department of Energy Abolishment Act accomplish these goals by immediately eliminating the Cabinet-level status of the DOE and creating a 3-year resolution agency to oversee the transfer, privatization and elimination of the various DOE programs and functions. Then, the legislation sets about dismantling the DOE structure.

Under title I of the bill, the Federal Energy Regulatory Commission [FERC] is transformed into an independent agency. This is similar to the FERC status prior to the creation of the DOE.

The pending cases before the Energy Regulatory Administration [ERA] are transferred to the Department of Justice with a 1-year resolution deadline. Furthermore, the DOJ is instructed to utilize alternative dispute resolution whenever possible.

The activities of the Energy Information Administration [EIA] are transferred to the Department of Interior [DOI], which will have the discretion of maintaining or privatizing EIA activities.

The basic science and energy programs within the DOE structure are handled in two ways. Those activities not being conducted by the DOE laboratory facilities are transferred immediately to the DOI. Once at the DOI, the Secretary of Interior has the discretion of determining which functions or programs constitute basic research and can recommend transfer to the National Science Foundation [NSF] for further study and recommendation by an independent science commission which is also established to look at the DOE labs.

For those activities which are more commercial in nature, the Secretary has 1 year to recommend to the Congress a plan for permanent disposition of these functions. These activities can then be assumed by the private sector, focusing Government dollars toward fundamental research initiatives.

Under title II of the bill, the three defense labs—Sandia, Lawrence Livermore, and Los Alamos—are all transferred to the Department of Defense under the civilian management and control of a new defense nuclear programs agency. The remaining nondefense laboratories are transferred to the NSF for review by a non-defense energy laboratory commission. The Commission can recommend restructuring, privatization or concur with the bills closure language.

Furthermore, if the commission identifies additional labs or functions which are national security related, the commission can recommend a transfer of functions to one of the defense labs or a transfer of those facilities to the DOD.

Once the commission has submitted its recommendations, Congress has fast-track authority to consider the report and enact the recommendations. Failure by Congress to act will result in closure of facilities within 18 months of the reports issuance.

Under title III of the bill, the Power Marketing Administrations [PMA's]—Bonneville, Southeastern, Southwestern, and Western—are transferred to the U.S. Army Corps of Engineers. The General Accounting Office is then instructed to conduct an inventory of the PMA assets and liabilities. The GAO is then instructed to perform a study of the options available which protect the interests of the current customers and taxpayers and submit it to the Congress.

The Strategic Petroleum Reserve [SPR] and the Naval Petroleum Reserve are addressed under title IV of the bill. The SPR is transferred to the DOD where a GAO study is ordered to determine alternatives to maintaining the reserves. Once complete, the Secretary of DOD has the discretion to determine the amount to maintain or sell. The Naval Petroleum Reserve, however, is ordered to be sold within 3 years under the direction of the resolution administrator. If the sale is not completed within this timeframe, the Secretary of Interior is instructed to administer the balance of the sale.

The largest portion of the DOE's budget, defense-related provisions, are addressed under titles V & VI of the legislation. All national security and environmental management programs are transferred to a newly created, civilian-controlled Defense Nuclear Programs Agency [DNPA]. This includes stewardship of the weapons production facilities and the stockpile.

The environmental restoration activities at the defense nuclear facilities are also transferred to the new DNPA to coordinate ongoing DOD cleanup activities. DOE's current cleanup programs have wasted billions of dollars with little progress in their efforts at sites such as Hanford. This transfer is aimed at refocusing taxpayer dollars to cleanup, rather than duplicative bureaucracies.

Title VII of the legislation transfers the civilian waste program to the Army Corps of Engineers. Site characterization activities continue at the Yucca Mountain site, and Area 25 of the Nevada Test Site is named as the interim storage site. This temporary site is consistent with legislation currently pending before the U.S. Senate. Also, the GAO is instructed to conduct a study of options for program privatization initiatives. These changes to the civilian waste program represent the best way to ensure the Federal Government meets its obligation to begin accepting waste by 1998.

The merits and importance of this legislation have been recognized not only by Secretary Weinberger, but also by two men who know the DOE inside and out—former Energy Secretaries Donald Hodel and John Herrington. I am delighted that our legislation has their support, as well as the support of the Cato Institute, the Competitive Enterprise Institute, and Citizens Against Government Waste.

I would like to close by quoting Nobel Prize-winning economist Milton Friedman who in 1977 likened a national energy agency to a Trojan Horse, saying ''[I]t enthrones a bureaucracy that would have a self-interest in expanding in size and power and would have the means to do so.''

Over the years, we have witnessed Dr. Friedman's prediction come true—and all at the cost of hundreds of billions of wasted taxpayers' dollars. As a result, the DOE has managed to see its 19th anniversary this year. It should not be around for its 20th. It is time to put this Trojan Horse out to pasture.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Mississippi [Mr. LOTT], the Senator from Hawaii [Mr. INOUYE], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 39, a bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

S. 258

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 494

At the request of Mr. KYL, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 494, a bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits.

S. 568

At the request of Mr. COATS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 568, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 607

At the request of Mr. WARNER, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 814

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

S. 874

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 874, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 948

At the request of Mr. DORGAN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Louisiana [Mr. BREAUX], the Senator from New York [Mr. D'AMATO],