

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

## HATCH AMENDMENT NOS. 408-409

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the bill, S. 1059, *supra*; as follows:

### AMENDMENT NO. 408

At the appropriate place, insert the following new section:

#### SEC. AUTHORITY FOR PUBLIC BENEFIT TRANSFER TO CERTAIN TAX-SUPPORTED EDUCATIONAL INSTITUTIONS OF SURPLUS PROPERTY UNDER THE BASE CLOSURE LAWS.

(a) IN GENERAL.—(1) Notwithstanding any provision of the applicable base closure law or any provision of the applicable base closure law or any provision of the Federal Property and Administrative Services Act of 1949, the Administrator of General Services may transfer to institutions described in subsection (b) the facilities described in subsection (c). Any such transfer shall be without consideration to the United States.

(2) transfer under paragraph (1) may include real property associated with the facility concerned.

(3) An institution seeking a transfer under paragraph (1) shall submit to the Administrator an application for the transfer. The application shall include such information as the Administrator shall specify.

(b) COVERED INSTITUTIONS.—An institution eligible for the transfer of a facility under subsection (a) is any tax-supported educational institution that agrees to use the facility for—

- (1) student instruction;
- (2) the provision of services to individuals with disabilities;
- (3) the health and welfare of students;
- (4) the storage of instructional materials or other materials directly related to the administration of student instruction; or
- (5) other educational purposes.

(c) AVAILABLE FACILITIES.—A facility available for transfer under subsection (a) is any facility that—

- (1) is located at a military installation approved for closure or realignment under a base closure law;
- (2) has been determined to be surplus property under that base closure law; and
- (3) is available for disposal as of the date of the enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) The term “base closure laws” means the following:

(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) The term “tax-supported educational institution” means any tax-supported educational institution covered by section 203(k)(1)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(1)(A)).

### AMENDMENT NO. 409

On page 54, after line 24, insert the following:

#### Subtitle E—Other Matters

#### SEC. 251. REPORT ON AIR FORCE DISTRIBUTED MISSION TRAINING.

(a) REQUIREMENT.—The Secretary of the Air Force shall submit to Congress, not later than January 31, 2000, a report on the Air Force Distributed Mission Training program.

(b) CONTENT OF REPORT.—The report shall include a discussion of the following:

(1) The progress that the Air Force has made to demonstrate and prove the Air Force Distributed Mission Training concept of linking geographically separated, high-fidelity simulators to provide a mission rehearsal capability for Air Force units, and any units of any of the other Armed Forces as may be necessary, to train together from their home stations.

(2) The actions that have been taken or are planned to be taken within the Department of the Air Force to ensure that—

(A) an independent study of all requirements, technologies, and acquisition strategies essential to the formulation of a sound Distributed Mission Training program is under way; and

(B) all Air Force laboratories and other Air Force facilities necessary to the research, development, testing, and evaluation of the Distributed Mission Training program have been assessed regarding the availability of the necessary resources to demonstrate and prove the Air Force Distributed Mission Training concept.

### SMITH AMENDMENT NO. 410

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill, S. 1059, *supra*; as follows:

On page 404, below line 22, add the following:

#### TITLE XIII—CHEMICAL DEMILITARIZATION ACTIVITIES

##### SEC. 1301. SHORT TITLE.

This title may be cited as the “Community-Army Cooperation Act of 1999”.

##### SEC. 1302. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Between 1945 and 1989, the national security interests of the United States required the construction, and later, the deployment and storage of weapons of mass destruction throughout the geographical United States.

(2) The United States is a party to international commitments and treaties which require the decommissioning or destruction of certain of these weapons.

(3) The United States has ratified the Chemical Weapons Convention which requires the destruction of the United States chemical weapons stockpile by April 29, 2007.

(4) Section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) provides that the Department of the Army shall be the executive agent for the destruction of the chemical weapons stockpile.

(5) In 1988, the Department of the Army determined that on-site incineration of chemical weapons at the eight chemical weapons storage locations in the continental United States would provide the safest and most efficient means for the destruction of the chemical weapons stockpile.

(6) The communities in the vicinity of such locations have expressed concern over the safety of the process to be used for the incineration of the chemical weapons stockpile.

(7) Sections 174 and 175 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) and section 8065 of the Department of Defense Appropriations Act, 1997 (Public Law 104-208) require that the Department of the Army explore methods other than incineration for the destruction of the chemical weapons stockpile.

(8) Compliance with the 2007 deadline for the destruction of the United States chemical weapons stockpile in accordance with

the Chemical Weapons Convention will require an accelerated decommissioning and transporting of United States chemical weapons.

(9) The decommissioning or transporting of such weapons has caused, or will cause, environmental, economic, and social disruptions.

(10) It is appropriate for the United States to mitigate such disruptions.

(b) PURPOSE.—It is the purpose of this title to provide for the mitigation of the environmental, economic, and social disruptions to communities and Indian tribes resulting from the onsite decommissioning of chemical agents and munitions, and related materials, at chemical demilitarization facilities in the United States.

##### SEC. 1303. SENSE OF CONGRESS.

It is the sense of Congress that the Secretary of Defense and the Secretary of the Army should streamline the administrative structure of the Department of Defense and the Department of the Army, respectively, in order that the officials within such departments with immediate responsibility for the demilitarization of chemical agents and munitions, and related materials, have authority—

(1) to meet the April 29, 2007, deadline for the destruction of United States chemical weapon stockpile as required by the Chemical Weapons Convention; and

(2) to employ sound management principles, including the negotiation and implementation of contract incentives, to—

(A) accelerate the decommissioning of chemical agents and munitions, and related materials; and

(B) enforce budget discipline on the chemical demilitarization program of the United States while mitigating the disruption to communities and Indian tribes resulting from the onsite decommissioning of the chemical weapons stockpile at chemical demilitarization facilities in the United States.

##### SEC. 1304. DECOMMISSIONING OF UNITED STATES CHEMICAL WEAPONS STOCKPILE.

(a) IN GENERAL.—As executive agent for the chemical demilitarization program of the United States, the Department of the Army shall facilitate, expedite, and accelerate the decommissioning of the United States chemical weapons stockpile so as to complete the decommissioning of that stockpile by April 29, 2007, as required by the Chemical Weapons Convention.

##### SEC. 1305. ECONOMIC ASSISTANCE PAYMENTS.

(a) IN GENERAL.—Upon the direction of the Secretary of the Army, the Comptroller of the Army shall make economic assistance payments to communities and Indian tribes directly affected by the decommissioning of chemical agents and munitions, and related materials, at chemical demilitarization facilities in the United States.

(b) SOURCE OF PAYMENTS.—Amounts for payments under this section shall be derived from appropriations available to the Department of the Army for chemical demilitarization activities.

(c) TOTAL AMOUNT OF PAYMENTS.—(1) Subject to paragraph (2), the aggregate amount of payments under this section with respect to a chemical demilitarization facility during the period beginning on the date of the enactment of this Act and ending on April 29, 2007, may not be less than \$50,000,000 or more than \$60,000,000.

(2) Payments under this section shall cease with respect to a facility upon the transfer of the facility to a State-chartered municipal corporation pursuant to an agreement referred to in section 1412(c)(2)(B) of the Department of Defense Authorization Act, 1986, as amended by section 1306 of this Act.

(d) DATE OF PAYMENT.—(1) Payments under this section with respect to a chemical demilitarization facility shall be made on

March 1 and September 2 each year if the decommissioning of chemical agents and munitions, and related materials, occurs at the facility during the applicable payment period with respect to such date.

(2) For purposes of this section, the term "applicable payment period" means—

(A) in the case of a payment to be made on March 1 of a year, the period beginning on July 1 and ending on December 31 of the preceding year; and

(B) in the case of a payment to be made on September 2 of a year, the period beginning on January 1 and ending on June 30 of the year.

(e) **ALLOCATION OF PAYMENT.**—(1) Except as provided in paragraph (2), each payment under this section with respect to a chemical demilitarization facility shall be allocated equally among the communities and Indian tribes that are located within the positive action zone of the facility, as determined by population.

(2) The amount of an allocation under this subsection to a community or Indian tribe shall be reduced by the amount of any tax or fee imposed or assessed by the community or Indian tribe during the applicable payment period against the value of the facility concerned or with respect to the storage or decommissioning of chemical agents and munitions, or related materials, at the facility.

(f) **COMPUTATION OF PAYMENT.**—(1) Except as provided in paragraph (2), the amount of each payment under this section with respect to a chemical demilitarization facility shall be the amount equal to \$10,000 multiplied by the number of tons of chemical agents and munitions, and related materials, decommissioned at the facility during the applicable payment period.

(2)(A) If at the conclusion of the decommissioning of chemical agents and munitions, and related materials, at a facility the aggregate amount of payments made with respect to the facility is less than the minimum amount required by subsection (c)(1), unless payments have ceased with respect to the facility under subsection (c)(2), the amount of the final payment under this section shall be the amount equal to the difference between such aggregate amount and the minimum amount required by subsection (c)(1).

(B) This paragraph shall not apply with respect to a facility if the decommissioning of chemical agents and munitions, and related materials, continues at the facility after April 29, 2007.

(g) **INTEREST ON UNTIMELY PAYMENTS.**—(1) Any payment that is made under this section for an applicable payment period after the date specified for that period in subsection (d) shall include, in addition to the payment amount otherwise provided for under this section, interest at the rate of 1.5 percent per month.

(2) Amounts for payments of interest under this paragraph shall be derived from amounts available for the Department of Defense, other than amounts available for chemical demilitarization activities.

(h) **USE OF PAYMENTS.**—A community or Indian tribe receiving a payment under this section may utilize amounts of the payment for such purposes as the community or Indian tribe, as the case may be, considers appropriate in its sole discretion.

#### **SEC. 1306. ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.**

Paragraph (2) of section 1412(c) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)) is amended to read as follows:

"(2)(A) Facilities constructed to carry out this section may not be used for any other purpose than the destruction of the following:

"(i) The United States stockpile of lethal chemical agents and munitions that exist on November 8, 1985.

"(ii) Any items designated by the Secretary of Defense after that date to be lethal chemical agents and munitions, or related materials.

"(B) Facilities constructed to carry out this section shall, when no longer needed for the purposes for which they were constructed, be disposed of in accordance with agreements between the office designated or established under section 1304(b) of the National Defense Authorization Act for Fiscal Year 2000 and the chief executive officer of the State in which the facilities are located.

"(C) An agreement referred to in subparagraph (B) that provides for the transfer of facilities from the United States to a State-chartered municipal corporation shall include provisions as follows:

"(i) That any profits generated by the corporation from the use of such facilities shall be used exclusively for the benefit of communities and Indian tribes located within the positive action zone of such facilities, as determined by population.

"(ii) That any profits referred to in clause (i) shall be apportioned among the communities and Indian tribes concerned on the basis of population, as determined by the most recent decennial census.

"(iii) That the transfer of such facilities shall include any lands extending 50 feet in all directions from such facilities.

"(iv) That the transfer of such facilities include any easements necessary for reasonable access to such facilities.

"(D) An agreement referred to in subparagraph (B) may not take effect if executed after December 31, 2000."

#### **SEC. 1307. ACTIONS REGARDING ACTIVITIES AT CHEMICAL DEMILITARIZATION FACILITIES.**

(a) **LIMITATION ON JURISDICTION.**—(1) An action seeking the cessation of the construction, operation, or demolition of a chemical demilitarization facility in the United States may be commenced only in a district court of the United States.

(2) No administrative office exercising quasi-judicial powers, and no court of any State, may order the cessation of the construction, operation, or demolition of a chemical demilitarization facility in the United States.

(b) **LIMITATIONS ON STANDING.**—(1)(A) Except as provided in paragraph (2), as of a date specified in subparagraph (B), no person shall have standing to bring an action against the United States relating to the decommissioning of chemical agents and munitions, and related materials, at a chemical demilitarization facility except—

(i) the State in which the facility is located; or

(ii) a community or Indian tribe located within the Positive Action Zone of the facility.

(B) A date referred to in this subparagraph for a chemical demilitarization facility is the earlier of—

(i) the date on which the first payment is made with respect to the facility under section 1305; or

(ii) the date on which an agreement referred to in section 1412(c)(2)(B) of the Department of Defense Authorization Act, 1986, as amended by section 1306 of this Act, becomes effective for the facility in accordance with the provisions of such section 1412(c)(2)(B).

(2) Paragraph (1) shall not apply in the case of an action by a State, community, or Indian tribe to determine whether the State, community, or Indian tribe, as the case may be, has a legal or equitable interest in the facility concerned.

(c) **INTERIM RELIEF.**—(1) During the pendency of an action referred to in subsection (a), a district court of the United States may issue a temporary restraining order against the ongoing construction, operation, or demolition of a chemical demilitarization facility if the petitioner proves by clear and convincing evidence that the construction, operation, or demolition of the facility, as the case may be, is will cause demonstrable harm to the public, the environment, or the personnel who are employed at the facility.

(2) The Secretary of Defense or the Secretary of the Army may appeal immediately any temporary restraining order issued under paragraph (1) to the court of appeals of the United States.

(d) **STANDARDS TO BE EMPLOYED IN ACTIONS.**—In considering an action under this section, including an appeal from an order under subsection (c), the courts of the United States shall—

(1) treat as an irrebuttable presumption the presumption that any activities at a chemical demilitarization facility that are undertaken in compliance with standards of the Department of Health and Human Services, the Department of Transportation, or the Environmental Protection Agency relating to the safety of the public, the environment, and personnel at the facility will provide maximum safety to the public, environment, and such personnel; and

(2) in the case of an action seeking the cessation of construction or operation of a facility, compare the benefit to be gained by granting the specific relief sought by the petitioner against with the increased risk, if any, to the public, environment, or personnel at the facility that would result from deterioration of chemical agents and munitions, or related materials, during the cessation of the construction or operation.

(e) **PARTICIPATION IN ACTIONS AS BAR TO PAYMENTS.**—(1) No community or Indian tribe which participates in any action the result of which is to defer, delay, or otherwise impede the decommissioning of chemical agents and munitions, or related materials, in a chemical demilitarization facility may receive any payment or portion thereof made with respect to the facility under section 1305 while so participating in such action.

(f) **IMPLEADING OF CONTRACTORS.**—(1) The Department of the Army may, in an action with respect to a chemical demilitarization facility, implead a nongovernmental entity having contractual responsibility for the decommissioning of chemical agents and munitions, or related materials, at the facility for purposes of determining the responsibility of the entity for any matters raised by the action.

(2)(A) A court of the United States may assess damages against a nongovernmental entity impleaded under paragraph (1) for acts of commission or omission of the entity that contribute to the failure of the United States to decommission chemical agents and munitions, and related materials, at the facility concerned by April 29, 2007, in accordance with the Chemical Weapons Convention.

(B) The damages assessed under subparagraph (A) may include the imposition of liability on an entity for any payments that would otherwise be required of the United States under section 1305 with respect to the facility concerned.

#### **SEC. 1308. DEFINITIONS.**

In this title:

(1) **CHEMICAL AGENT AND MUNITION.**—The term "chemical agent and munition" has the meaning given that term in section 1412(j)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(j)(1)).

(2) **CHEMICAL WEAPONS CONVENTION.**—The term "Chemical Weapons Convention"

means the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) **COMMUNITY.**—The term “community” means a country, parish, or other unit of local government.

(4) **DECOMMISSION.**—The term “decommission”, with respect to a chemical agent and munition, or related material, means the destruction, dismantlement, demilitarization, or other physical act done to the chemical agent and munition, or related material, in compliance with the Chemical Weapons Convention or the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

(5) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROBERTS. Mr. President, I ask consent for the Committee on Agriculture, Nutrition, and Forestry to meet on May 26, 1999 in SH-216 to consider livestock issues.

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 26, 1999, at 2:00 p.m. on FCC oversight.

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

##### COMMITTEE ON FINANCE

Mr. ROBERTS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, May 26, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 26, 1999 at 10:15 a.m. to hold a hearing.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday May 26, 1999, at 9:30 a.m. to conduct a hearing on American Indian Youth Activities and Initiatives. The hearing will be held in room 485 of the Russell Senate Office Building.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be author-

ized to meet during the session of the Senate on Wednesday, May 26, 1999 at 2:00 p.m. to hold a closed hearing on intelligence matters.

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

##### SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property Rights, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, May 26, 1999 to hold a hearing, at 2:00 p.m., in room SD-222 of the Senate Dirksen Office Building on: “S.J. Res. 3, proposing an amendment to the Constitution, Rights of Crime Victims.”

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

##### SUBCOMMITTEE ON EMPLOYMENT, SAFETY, AND TRAINING

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on “Increasing MSHA and Small Mine Cooperation” during the session of the Senate on Wednesday, May 26, 1999, at 9:30 a.m.

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

##### SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 26, for purposes of conducting a Forests and Public Land Management Subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 510, the American Land Sovereignty Protection Act.

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

##### SUBCOMMITTEE ON IMMIGRATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, May 26, 1999 at 10:00 a.m. to hold a hearing in room 226, Senate Dirksen Office Building, on: “The Contribution of Immigrants to America’s Armed Forces.”

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

##### SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on International Security, Proliferation, and Federal Services be permitted to meet on Wednesday, May 26, 1999, at 2:00 p.m. for a hearing to examine the unclassified report of the

House Select Committee on U.S. National Security and Military/Commercial Concerns with the People’s Republic of China.

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

##### SUBCOMMITTEE ON SECURITIES

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 26, 1999, to conduct a hearing on “Corporate Trades 1.”

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

#### ADDITIONAL STATEMENTS

##### JEMEZ-PECOS REPATRIATION

• Mr. BINGAMAN. Mr. President, I rise today to commemorate a truly historic event that took place in my state of New Mexico last Saturday—the nation’s largest act of Native American repatriation. The “Jemez-Pecos Repatriation” resulted in the reburial of nearly 2,000 human remains and artifacts unearthed from what should have been their final resting place over 70 years ago.

On the Wednesday before the reburial, over 300 people started the 120 mile walk from Jemez Pueblo in northern New Mexico to the ruins of the Pecos Pueblo. The journey is a long one in the dry New Mexico sun. The group, both young and old, traveled across three counties and through the beautiful Jemez Mountains before arriving at the former site of the Pecos Pueblo. But the journey of their ancestors is much more remarkable.

Prior to the 1820’s, the Pueblo was a thriving community and center for trade. The Pecos interacted extensively with the Plains Indians to the east, the neighboring Pueblos to the west and the nearby Spanish communities. However, years of disease and warfare eventually decimated the population. In 1838, the remaining residents of Pecos Pueblo relocated to the Pueblo of Jemez, in order to protect their traditional leaders, sacred objects and culture. This decision reflects the fact that Jemez and Pecos cultures were intricately linked by blood, language and spiritual beliefs as well as through their “origin stories”. In 1936, Congress formally merged the two tribes into one, with the Pueblo of Jemez named as the legal representative of the Pecos culture and administrative matters.

When the Pecos Pueblo was abandoned in 1838, it likely did not occur to the few surviving members of the Pecos that their burial site would be disturbed during the next century. However, the famed archaeologist Alfred V. Kidder unearthed the remains and artifacts during ten excavations between 1915 and 1929. The remains were housed at the Peabody Museum of Archaeology and Ethnology in Cambridge,