Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 866
At the request of Mr. Reid, the names of the Senator from Ohio (Mr. DeWine) and the Senator from Arkansas (Mrs. Lincoln) were added as cosponsors of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 932
At the request of Mr. Gregg, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 932, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 999
At the request of Mr. Feingold, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. 999, a bill to prohibit racial profiling. At the request of Mr. Dodd, his name was added as a cosponsor of S. 988, supra.

S. 999
At the request of Mr. Bingaman, the names of the Senator from New Hampshire (Mr. Smith) and the Senator from Colorado (Mr. Allard) were added as cosponsors of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 107
At the request of Mr. Dodd, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. 1071, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

S. 1039
At the request of Mr. Conrad, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 1039, a bill to improve health care in rural areas by amending title XVIII of the Social Security Act and the Public Health Service Act, and for other purposes.

S. 1039
At the request of Mrs. Hutchison, the name of the Senator from Mississippi (Mr. Lott) was added as a cosponsor of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

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

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

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

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

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

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

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

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

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

S. RES. 1140
At the request of Mr. Hagel, the names of the Senator from Minnesota (Mr. Wellstone), the Senator from Michigan (Ms. Stabenow), the Senator from Maryland (Mr. Sarbanes) and the Senator from Nebraska (Mr. Nelson) were added as cosponsors of S. Con. Res. 53, supra.

S. CON. RES. 53
At the request of Mr. Hagel, the names of the Senator from Minnesota (Mr. Wellstone), the Senator from Michigan (Ms. Stabenow), the Senator from Maryland (Mr. Sarbanes) and the Senator from Nebraska (Mr. Nelson) were added as cosponsors of S. Con. Res. 53, supra.

AMENDMENT NO. 821
At the request of Mr. Allard, the names of the Senator from New Hampshire (Mr. Gregg), the Senator from Idaho (Mr. Craig), the Senator from Oklahoma (Mr. Nickles), the Senator from Virginia (Mr. Allen), the Senator from Oklahoma (Mr. Inhofe), the Senator from New Hampshire (Mr. Smith), the Senator from Texas (Mr. Gramm), the Senator from Maine (Ms. Collins), the Senator from Alabama (Mr. Sessions), the Senator from Wyoming (Mr. Enzi) and the Senator from Colorado (Mr. Campbell) were added as cosponsors of amendment No. 821 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. Hatch (for himself, Mr. Feingold, Mr. Grassley, Mr. Leahy, Mr. Breaux, Mr. Burns, Mr. Reid, Mr. Craig, Mr. Torricelli, Mr. Bennett, Ms. Snowe, Mr. DeWine, Mr. Thomas, and Mr. Hutchinson):

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

Mr. Hatch. Mr. President, I rise today to introduce S. 1140, “The Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001.” I am pleased to be joined in cosponsorship of this legislation by Senators Feingold, Grassley, Leahy, Warner, Breaux, Burns, Reid, Craig, Torricelli, Bennett, Snowe, DeWine, Thomas, and Hutchinson. Our bill is intended to allow automobile dealers their day in court when they have disputes with the manufacturers.

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

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

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

I must note that this legislation is extremely narrow and affects only the unique relationship between small business auto dealers and motor vehicle manufacturers, which is strictly governed by State law. This legislation is not intended to regulate the State interest in regulating the motor vehicle dealer/manufacturer relationship.

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

I urge my colleagues to support this worthwhile legislation.

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

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

S. 1140

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001”.

SEC. 2. ELECTION OF ARBITRATION.

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

“§ 17. Motor vehicle franchise contracts

(a) For purposes of this section, the term:

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

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

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

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

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

“§ 17. Motor vehicle franchise contracts.”.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply—

(1) to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

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

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

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

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

In 1952, when the FAA was enacted to make arbitration agreements enforceable in Federal courts, it did not expressly provide for preemption of State law. Nor is there any legislative history to indicate Congress intended to occupy the entire field of arbitration. However, in 1984 the Supreme Court interpreted the FAA to preempt state law in Southland Corporation v. Keating. This, State laws that protect weaker parties from being forced to accept arbitration and to waive State rights, such as Iowa’s law prohibiting manufacturers from requiring dealers to submit to mandatory binding arbitration, are preempted by the FAA.

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

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

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

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

While alternative methods of dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned about the increasing trend of stronger parties to a contract forcing weaker parties to waive their rights and agree to arbitrate any future disputes that may arise. In every Congress since 1994, I have introduced the Civil Rights Procedures Protection Act, which amends certain civil rights statutes to prevent the involuntary imposition of arbitration to claims that arise from unlawful employment discrimination and sexual harassment. A few years ago, it came to my attention that the automobile and truck manufacturers, which often present dealers with “take it or leave it” contracts, are increasingly including mandatory and binding arbitration clauses as a condition of entering into or maintaining an auto or truck franchise. This practice forces dealers to submit their disputes with manufacturers to arbitration. As a result, dealers are required to waive access to judicial or administrative forums, substantive contract law, and important due process protection. In short, this practice clearly violates the dealers’ fundamental due process rights and runs directly counter to basic principles of fairness.

Franchise agreements for auto and truck dealerships are typically not negotiable between the manufacturer and the dealer. The dealer accepts the terms offered by the manufacturer, or it loses the dealership, plain and simple. Dealers have never been forced to rely on the States to pass laws designed to balance the manufacturers’ far greater bargaining power and to safeguard the rights of dealers. The first State automobile statute was enacted in my home State of Wisconsin in 1937 to protect citizens from injury and fraud. Moreover, if a distributor induced a Wisconsin citizen to invest considerable sums of money in dealership facilities, and then canceled the dealership without cause. Since then, all States except Alaska have enacted substantive laws to balance the enormous bargaining power enjoyed by manufacturers over dealers and to safeguard small business dealers from unfair automobile and truck manufacturer practices.

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

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

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

The most troubling problem with this sort of mandatory binding arbitration is the absence of judicial review. The most notable case involves a dealer-termination. To that dealer, that small business person, this decision is of commercial life or death importance. Even under this scenario, the dealer would not have recourse to substantial judicial review of the arbitrators’ ruling. Let me be very clear on this point. An arbitrator’s ruling that an arbitration award cannot be vacated, even if the arbitration panel disregarded state law that likely would have produced a different result.

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

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

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

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

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

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

By Mr. LIEBERMAN:

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

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

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

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

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

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

Let me explain the difference between ISOs and NSOs. Incentive stock options are sanctioned by the Internal Revenue code. Under current law the employee pays no tax when he or she exercises the option and buys the company’s shares at the stock option price. The company receives no tax deduction on the spread, the difference between the option price and the market price. The employee holds the stock for two years after the grant of the option and one year after the exercise of the option, he or she pays the capital gains tax on the difference between the exercise and sale price on the sale of the stock. The tax payment is deferred until the stock is sold and the tax is paid on the real gains that are realized from the sale.

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

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

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

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

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

My understanding is that is the firms that are most likely to be affected are small firms which are feeling the brunt of the AMT/ISO problem.

The application of the AMT to ISOs is strange because long-term holdings of stock, as required by the ISO law, are classic capital gains transactions and we do not apply the AMT to the capital gains tax. The AMT is imposed at the time the stock is sold, the lower capital gains rate, is a tax benefit but that differential is not included in the AMT. Given all the problems we are now seeing with the AMT
the capital gains differential should not be included as a preference item. But, by an accident of history, the AMT did not apply to ISOs. This makes no sense and it is an anomaly in the tax code. When the Congress restored the capital gains differential, and did not include it as an AMT tax preference item, we should have enacted a conforming amendment removing the AMT and ISOs. We didn’t, and we should do so now.

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

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

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

My bill would change those tax rules so that the AMT no longer applies to ISOs and no tax is owed at the time when the entrepreneur exercises the option. This change would eliminate the unfair tax treatment of paper gains on ISOs. This would encourage long-term holdings of stock, not immediate sale of the stock as a hedge against AMT tax liability. It would do nothing to exempt entrepreneurs from paying tax on their real gains when they eventually sell the stock. My bill would solve this problem going forward. It would not, as drafted, provide relief to the taxpayers who already have been hit with AMT taxes on phantom gains. There is a bipartisan group in the House and Senate focusing on this group of taxpayers. This group has a strong claim for relief based on the inherent unfairness of the AMT as applied to ISOs. The unfairness of this law leads me to call for reform going forward should be remedied for current, as well as future taxpayers.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $12.4 billion over 10 years. The JTC argued that this estimate, but there is no way for me to appeal it. The JTC does not provide explanations for its estimates, but I would assume that this estimate is based on the likelihood that there would be fewer tax payments at the time options are exercised as firms move from NSOs to ISOs, those employees with ISOs would not be paying the AMT, and there will be more employees who hold the stock and pay capital gains tax rates. Offsetting this, there will be fewer companies taking the deduction for NSOs. The revenue loss year-by-year is as follows: —$1.821 billion (2002), —$1.126 billion (2003), —$858 billion (2004), —$825 billion (2005), —$941 billion (2006), —$1.106 billion (2007), —$1.341 billion (2009), —$1.620 billion (2010), and $1.910 (2011). The loss during the 2002–2006 period is —$5.494 billion. I will not propose to enact my bill unless this impact is financed and will have no impact on the Federal budget.

I am pleased that Rep. ZOE LOFGREN (D-CA) has introduced legislation on AMT/ISO in the other body (H.R. 1497). Her bill has attracted a bipartisan group of cosponsors. I look forward to working with her and other Members to remedy this inequity in the tax code and to do so with regard to current as well future taxpayers.

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

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

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

Mr. CAMPBELL. Mr. President, today I introduce the “Ronald Reagan Commemorative Coin Act of 2001.” The bill I am introducing today would accomplish two worthy goals. First, it would help honor Ronald Reagan, the 40th President of the United States. Second, it would also help raise much needed resources to help families across the United States provide care for their loved ones who have been stricken by Alzheimer’s disease.

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

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

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

Ronald Reagan’s boundless optimism and deep-seated belief in the people of the United States and the American Dream helped restore our Nation’s pride in itself and brought about a new “Morning in America.” His 1984 challenge to Gorbachev to “tear down this wall,” his successful revival of our economic power, his determination to rebuild our armed forces in order to contain the spread of communism, and his international summitry skills as seen at Reykjavik, Iceland, combined to help bring an end to the Cold War. Ronald Reagan left our Nation in much better shape than it was when he took office.

As Alzheimer’s sets in, brain cells afflicted by the disease gradually lose their cognitive ability. Patients eventually become completely helpless and dependent on those around them for June 29, 2001
even the most basic daily needs. Each of the millions of Americans who is now affected will eventually, barring new medical breakthroughs in treatment, lose their ability to remember recent and past events, family and friends, even simple things like how to take a bath or turn on lights. Ronald Reagan, one of the most courageous and optimistic Presidents in American history, is no exception. Shortly after being shot in an assassination attempt, Ronald Reagan's courage and good humor in the face of a life threatening situation were evident when he famously apologized to his wife Nancy saying “Sorry honey, I forgot to duck.” Unfortunately, once Alzheimer's disease takes hold, it delivers a slow mind destroying bullet that none of us can duck to avoid. As Ronald Reagan fought between his mind and learning of his diagnosis “I only wish there was some way I could spare Nancy from this painful experience.” From the moment of diagnosis, it’s “a truly long, long, goodbye,” Nancy Reagan said. Fortunately for all of us, when Ronald Reagan courageously announced in such an honest and public manner that he had Alzheimer's, rather than covering it up, he did a great deal to help alleviate the negative stigma that has long faced those suffering from this terrible disease. Much of the shame and pity traditionally associated with Alzheimer's was transformed almost overnight into sympathy and understanding as public awareness suddenly shot up and those suffering from Alzheimer's, and their families, knew that they were not alone. While Ronald Reagan’s health didn’t deteriorate right away, according to Mrs. Reagan, he had his good days and bad ones. “Just like everybody else.” In recent years, however, Reagan’s condition has completely deteriorated. “It’s frightening and it’s cruel,” Nancy said, speaking of the disease and what it has done to her husband and family. “It’s sad to see somebody you love and have been married to for so long, with Alzheimer’s, and you can't share memories,” Mrs. Reagan said. In the introduction to a recently released book based on the touching love letters and letters of exchange shared between Ronald and Nancy, Nancy elaborated on her sense of loss when she wrote, “You know that it’s a progressive disease and that there’s no place to go but down, no light at the end of the tunnel. You get tired and frustrated, because you have no control and you feel helpless.” She also said, “There are so many memories that I can no longer share, which makes it very difficult.” Nancy Reagan has earned our Nation's love for her steadfast and loving dedication to her husband as she has watched her beloved husband slowly fade away. Likewise, families all across our Nation, day in and day out, choose to personally provide care for their loved ones suffering from Alzheimer's, rather than putting them in institutions. They deserve our respect and support. Fortunately, Nancy Reagan has had access to vital resources that help her care for her husband. This is how it should be. Unfortunately, there are many American families out there who do not have access to these resources. This bill will help alleviate that by raising money to help American families who are struggling while providing care for their loved ones. Fortunately, funding for Alzheimer's research has increased significantly over the past several years. Ronald Reagan's courage in coming forward and publically announcing his condition played an important role in raising public awareness of Alzheimer's and paved the way for the recent increases in research funding. This bill would complement these efforts. Once again, the legislation I am introducing today authorizes the U.S. Mint to produce commemorative coins honoring Ronald Reagan while raising funds to help families care for their family members suffering from Alzheimer's disease. I urge my colleagues to support passage of this legislation.

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

I ask unanimous consent that the following be enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ronald Reagan Commemorative Coin Act of 2001”.

SEC. 2. COIN SPECIFICATIONS.

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

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

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

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

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

(A) weigh 26.73 grams;

(B) have a diameter of 1.50 inches; and

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

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

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

SEC. 3. SOURCES OF BULLION.

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

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

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

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

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

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

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

(b) DESIGN SELECTION.—The design for the coins minted under this Act shall be selected by the Secretary, after consultation with the Commission of Fine Arts; and

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

SEC. 5. ISSUANCE OF COINS.

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

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

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

SEC. 6. SALE OF COINS.

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

(1) the face value of the coins; and

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

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

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

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

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

June 29, 2001

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

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

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

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

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

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

Mr. LIEBERMAN. Mr. President, I rise to introduce a bill that will reauthorize a small but highly effective program, the Emergency Food and Shelter Program, or EFSP for short. The EFSP program, which is administered by the Federal Emergency Management Agency, supplements community efforts to meet the needs of the homeless and hungry in all 50 States. I am very pleased that my colleagues on the Committee on Governmental Affairs, Senators COLLINS, LEVIN, DURBIN, and AKAKA, are joining me as original co-sponsors of this legislation. Our committee has jurisdiction over the EFSP program, and it is my hope that together we can generate even more bipartisan support for a program that makes a real difference with its tiny budget. The EFSP program is a great help not only to the Nation’s homeless population but also to working people who are trying to feed and shelter their families at entry-level wages. Services supplemented by the EFSP funding, such as food banks, local emergency rent/util-
By Mr. ALLARD:
S. 1146. A bill to amend the Act of March 3, 1875, to permit the State of Colorado to use land held in trust by the State as open space; to the Committee on Energy and Natural Resources.

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

There is already more than a $60 million shortage in authorized funding for the Federal Government to pay its share of decommissioning and remediation costs for a thorium facility in West Chicago, Illinois. In a DOE proceeding, it was determined that the government is responsible for 55.2 percent of all West Chicago cleanup costs because 55.2 percent of West Chicago tailings resulted from Federal contracts. Under Title X of the Energy Policy Act of 1992 (‘‘EPACT’’), the thorium licensees pay for all West Chicago cleanup costs, and is then reimbursed, though annual appropriations, the government’s share of those costs.

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

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

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

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD as follows:

S. 1146

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

SECTION 1. COLORADO TRUST LAND.

Section 7 of the Act of March 3, 1875 (18 Stat. 45, chapter 130) (commonly known as the ‘‘Colorado Enabling Act’’), is amended by inserting before the period at the end the following: “and for use for open space, wildlife habitat, scenic value, or other natural value, regardless of whether the land generates income for the common schools as described under section 14, except that the amount of land used for natural value shall not exceed 300,000 acres.”

By Mr. NICKLES:

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

The bill would amend subparagraph (H) and inserting “, or”, and by adding at the end the following:

“(III) Only First $20,000 of Wages Per Year Taken into Account.—The amount of the qualified first-year wages which may be taken into account with respect to any individual determined under subparagraph (I) shall not exceed $20,000 per year.”

(c) Special Rules for Determining Amount of Credit.—For purposes of applying this subpart to wages paid or incurred to any qualified low-income veteran—

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

“(ii) in section 51(c) of the Internal Revenue Code of 1986 (relating to termination) is amended by inserting before the period at the end the following: ‘‘and for use for open space, wildlife habitat, scenic value, or other natural value, regardless of whether the land generates income for the common schools as described under section 14, except that the amount of land used for natural value shall not exceed 300,000 acres.’’

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

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

CONGRESSIONAL RECORD—SENATE 12501

June 29, 2001

members of targeted groups) is amended by striking the period at the end of subparagraph (H) and inserting “, or”, and by adding at the end the following:

“(III) Only First $20,000 of Wages Per Year Taken into Account.—The amount of the qualified first-year wages which may be taken into account with respect to any individual determined under subparagraph (I) shall not exceed $20,000 per year.”

(c) Special Rules for Determining Amount of Credit.—For purposes of applying this subpart to wages paid or incurred to any qualified low-income veteran—

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

CONGRESSIONAL RECORD—SENATE 12501

June 29, 2001

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

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

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

There is already more than a $60 million shortage in authorized funding for the Federal share of West Chicago cleanup costs. Despite that, the thorium licensees have continued to pay all decommissioning costs at the West Chicago factory site, as well as remediation costs at various properties known as Reed-Keppler Park, Residential Properties, and Kress Creek. Remediation of Reed-Keppler Park was finished late last year and remediation of...
CONGRESSIONAL RECORD—SENATE  June 29, 2001

Mr. BURNS. Mr. President, I rise to introduce the Interstate Highway System Toll-Free Holiday Act.

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

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

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

By Mr. SMITH of New Hampshire:

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

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

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

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By Mr. REID (for himself and Mr. ENSIGN):
S. 1150

S. 1150 is introduced to amend the method for achieving quiet technology specified in the National Parks Air Tour Management Act of 2000; to the Committee on Commerce, Science, and Transportation.

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

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

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

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

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

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

I would like to compliment my good friend from Arizona, Senator John McCain for his vision and leadership in the Senate in recognizing that quieter aircraft was the key to restoring natural quiet to the Grand Canyon. During his tenure as chairman of the Senate Commerce Committee, it was Senator McCain who insisted on the quiet technology provisions contained in the National Park Air Tour Management Act of 2000.

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

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

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

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

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

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

Air touring is consistent with the Park Service mission.

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

Senator Ensign and I agree that, to the extent possible and practical, that the quieter these air tour aircraft do not need to be made to be, the better for everyone. That's why it is so important that the Grand Canyon Quiet Technology Implementation Act become the law.
I ask unanimous consent that the text of the Grand Canyon Quiet Technology Implementation Act be printed in the Record.

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

S. 1151

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Grand Canyon Quiet Technology Implementation Act".

SEC. 2. AMENDMENTS TO QUIET AIRCRAFT TECHNOLOGY.

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

"(f) ALTERNATIVE QUIET AIRCRAFT TECHNOLOGY.—

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

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

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

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

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

(II) have current technology engine exhaust mufflers;

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

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

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

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

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

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

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

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

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

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

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

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

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

Grasslands provided critical habitat for complex plant and animal communities throughout much of North America. However, many of these lands have been, and are under pressure to be, converted to other uses, threatening and eliminating plant and animal communities unique to this continent. A significant portion of the remaining lands are working ranches.

Ranchland provides important open-space buffers for animal and plant habitat. Moreover, ranching forms the economic backbone for much of rural western United States. Loss of this economic activity will invariably lead to the loss of the open space that is indispensable for plant and animal communities and for citizens who love the western style of life.

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

Specifically, this bill establishes the Grasslands Reserve program through the Natural Resources Conservation Service to assist owners in restoring and conserving eligible land. To be eligible to participate in the program an owner must enroll one contiguous acres of land west of the 90th meridian or 50 contiguous acres of land east of the 90th meridian. A maximum of 1,000,000 acres may be enrolled in the program in the form of a permanent or a 30-year easement. The program includes: native grasslands, working ranches, other areas that contain animal or plant populations of significant ecological value, and land that is necessary for the efficient administration of the easement.

The terms of the easements allow for grazing in a manner consistent with maintaining the viability of native grass species. All uses other than grazing, such as hay production, may be implemented according to terms of a written agreement between the landowner and easement holder. Easements prohibit the production of row crops, and other activities that disturb the surface of the land covered by the easement.

The Secretary will work with the State technical committee to establish criteria to evaluate and rank applications for easements which will emphasize support for grazing operations, plant and animal biodiversity, and native grass and shrubland under the greatest threat of conversion.

The Secretary may prescribe terms to the easement outlining how the land shall be restored including duties of the landowner and the Secretary. If the easement is violated, the Secretary may require the owner to refund all or part of the payments including interest. The Secretary may also conduct periodic inspections, after providing notice to the owner, to determine that the landowner is in compliance with the terms.

This legislation requires the Secretary to make payments for permanent easements based on the fair market value of the land less the grazing value of the land encumbered by the easement, and for 30 year easements the payment will be 30 percent of the fair market value of the land less the grazing value of the land encumbered by the easement. Payments may be made in one lump sum or over a 10 year period. Landowners may also choose to enroll their land in a 30-year rental agreement instead of a 30-year easement where the Secretary would make thirty annual payments which approximate the value of a lump sum payment the owner would receive under a 30-year easement. The Secretary is required to assess the payment schedule every five years to make sure that the payments do approximate the value of...
CONGRESSIONAL RECORD—SENATE 12505

By Mr. LEVIN (for himself and Mr. WARNER) (by request): S. 1155. A bill to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002, and for other purposes; to the Committee on Armed Services.

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

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

S. 1155

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2002.”

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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2. Procurement

3. Development, Test, and Evaluation

4. Authorization of Appropriations

5. Operation and Maintenance Fund

6. Working Capital Funds

7. Acquisition of Logistical Support for Security Forces


10. Reimbursement for Certain Costs in Connection with a Contingency Operation

11. Extension of Pilot Program for Sale of Air Pollution Emmission Reduction Incentives

12. Elimination of Report on Contractor Reimbursement Costs

13. Reimbursement for the Department of Defense and Other Federal Agencies for Services Provided to the Defense Commissary Agency

14. Reimbursement for Non-Commissary Use of Commissary Facilities

15. Commissary Contracts and Other Agencies and Instrumentalities

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18. Disposal of Obsolete and Excess Materials

19. Defense Stockpile

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27. Benefit Authorizations

28. Pay and Allowances

29. Administration of the Reserves

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43. Individual Ready Reserve Physical Examination Requirement

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47. Reserve Health Professionals

48. Reserve Officers on Active Duty

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58. Repeal of Limitation on Number of Junior Reserve Officers' Training Corps (JROTC) Units

59. Authorized Strengths: Reserve Officers and Senior Enlisted Members on Active Duty or Full-Time National Guard Duty for Administration of the Reserves or National Guard

60. Increase in Authorized Strengths for Air Force Officers on Active Duty in the Grade of Major

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Subtitle B—Reserve Component Personnel Policy

Subtitle C—Education and Training

Subtitle D—Other Matters

Subtitle E—Authorizations

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Sec. 402. End Strengths for Reserve Forces.

Sec. 403. End Strengths for Selected Reserve.

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Sec. 607. Clarifying Amendment that Space-Required Travel for Annual Training Reserve Duty Does Not Obligate Transportation Allowances.

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TITLE I—PROCUREMENT

Authorization of Appropriations

Sec. 101. Army.
Armed Forces for research, development, procurement for fiscal year 2002 for the use of the Department of Defense, for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- For the Army, $21,191,680,000.
- For the Navy, $25,961,392,000.
- For the Marine Corps, $2,892,314,000.
- For the Air Force, $26,146,770,000.
- For the Defense Wide Fund, $1,218,610,000.
- For the Army Reserve, $1,787,246,000.
- For the Navy Reserve, $1,003,690,000.
- For the Marine Corps Reserve, $144,023,000.
- For the Air Force Reserve, $2,029,866,000.
- For the Army National Guard, $3,677,359,000.
- For the Air National Guard, $3,897,361,000.
- For the Defense Inspector General, $150,221,000.
- For the United States Court of Appeals for the Armed Forces, $9,096,000.
- For Environmental Restoration, Army, $389,800,000.
- For Environmental Restoration, Navy, $257,517,000.
- For Environmental Restoration, Air Force, $855,437,000.
- For Environmental Restoration, Defense-Wide, $23,492,000.
- For Environmental Restoration, Formerly Used Defense Sites, $190,355,000.
- For Civilian, Disaster, and Civic Aid programs, $490,700,000.
- For Drug Interdiction and Counter-drug activities, Defense-wide, $263,381,000.
- For the Defense Working Capital Fund, $17,156,000.
- For the Defense Health Program, $65,394,000.

Section 101. Armed Forces.

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

- For aircraft, $1,925,491,000.
- For missiles, $1,859,634,000.
- For weapons and tracked combat vehicles, $2,276,746,000.
- For ammunition, $1,193,365,000.
- For other procurement, $3,961,737,000.
- For chemical agents and munitions destruction, $1,153,557,000.

(1) The destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (30 U.S.C. 1521) and the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

Section 102. Navy and Marine Corps.

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

- For aircraft, $8,252,543,000.
- For weapons, including missiles and torpedoes, $1,433,475,000.
- For shipbuilding and conversion, $9,344,121,000.
- For other procurement, $4,497,576,000.
- For-Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Marine Corps in the amount of $65,304,000.
- For Navy and Marine Corps Ammunition.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement of ammunition for the Navy and Marine Corps in the amount of $457,099,000.

Section 103. Air Force.

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

- For aircraft, $10,744,458,000.
- For missiles, $3,233,536,000.
- For procurement of ammunition, $865,344,000.
- For other procurement, $8,158,521,000.

Section 104. Defense-wide activities.

Funds are hereby authorized to be appropriated for fiscal year 2002 for defense-wide procurement in the amount of $1,951,986,000.


Funds are hereby authorized to be appropriated for fiscal year 2002 for the Air National Guard, the Air Force Reserve, the Marine Corps Reserve, the Army Reserve, and the Army National Guard in the amounts authorized to be appropriated by subsection (a) shall be made using the contract authority in the amount of $427,100,000, to remain available until September 30, 2002, is hereby authorized and appropriated to the Defense Working Capital Fund for the procurement, lease-purchase with substantial private sector risk, capital or operating multiple-year lease, of a capital asset, multiple-year lease, of a commercial craft or vessel and associated services.

Subtitle II—Environmental Provisions

Section 310. Reimburse EPA for Certain Costs in Connection with Hooper Sands Site, in South Berwick, Maine.

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

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using the amounts appropriated to be appropriated by this subsection (b) and section 310(b), and (c) (4), which is hereby authorized to be appropriated for fiscal year 2002 for the protection, enhancement or support of the United States, will be provided without reimbursement, whenever the President determines that such action enhances or supports the national security interests of the United States.”

Section 310. CONTRACT AUTHORITY FOR DEFENSE WORKING CAPITAL FUNDS.

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

Subtitle III—Operation and Maintenance

Title III—Operation and Maintenance

Subtitle A—Authorization of Appropriations

Section 301. Operation and Maintenance Fundings.

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

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

- Sec. 301. Army.
- Sec. 302. Navy.
- Sec. 303. Air Force.
- Sec. 304. National Guard.
- Sec. 305. Air National Guard.

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

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

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 315. Costs Payable to the Department of Defense and Other Federal Agencies for Services Provided to the Defense Commissary Agency.

Sec. 316. Reimbursement for Non-Commissary Use of Commissary Facilities.

Sec. 317. Commissary Contracts and Other Agreements and Instrumentalities.

Sec. 318. Operation of Commissary Stores.

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

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

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

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

"$2481. Reimbursement for non-commissary use of commissary facilities

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

(b) CLERICAL AMENDMENT.—The table of sections that appears at the beginning of such chapter 147 is amended by inserting before the item relating to section 2482 the following new item: "2481. Reimbursement for non-commissary use of commissary facilities."

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

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

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

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

"(2) Where the Secretary of Defense authorizes the Defense Commissary Agency to sell limited exclusive exchange privilege as commissary store inventory under section 2486(b)(1) of this title, the Defense Commissary Agency may sell into a contract or other agreement to obtain such merchandise available from the Armed Service Exchange, provided that such merchandise shall be sold at not more than the exchange retail price less the amount of commissary surcharge authorized to be collected by section 2486 of this title. If such sale is made, it shall be made to the Defense Commissary Agency from other than the Armed Service Exchanges, the limitations provided in section 2486(e) of this title apply."

SEC. 318. OPERATION OF COMMISSARY STORES.

Section 2482(b)(1) of title 10, United States Code, is amended by striking "A contract with a private person" and all that remains to the end of the subsection.

SUBTITLE A—ACTIVE FORCES

Title IV—Military Personnel

Authorizations

Subtitle A—Active Forces

Sec. 401. End Strengths for Active Forces.

Sec. 402. Authorized Strengths: Reserve Officers and Enlisted Members on Active Duty for Full-time National Guard Duty for Administration of the Reserves.

Sec. 403. Increase in Authorized Strengths for Air Force Officers on Active Duty in the Grade of Major.

Sec. 404. END STRENGTHS FOR SELECTED RESERVE.

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

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 39,558.


(6) The Air Force Reserve, 74,700.

(7) The Coast Guard Reserve, 8,000.

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

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

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

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

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

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

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

(2) The Army Reserve, 13,108.

(3) The Naval Reserve, 4,811.

(4) The Marine Corps Reserve, 2,251.

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

(6) The Air Force Reserve, 1,437.
SEC. 407. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

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

1. For the Army Reserve, 5,999.
2. For the Army National Guard of the United States, 23,128.
3. For the Air Force Reserve, 9,818.
4. For the Air National Guard of the United States, 22,422.

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

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

1. For the Army Reserve, 1,095.
2. For the Army National Guard of the United States, 1,600.
3. For the Air Force Reserve, 0.
4. For the Air National Guard of the United States, 350.

SEC. 409. AUTHORIZED STRENGTHS; RESERVE OFFICERS AND SENIOR ENLISTED MEMBERS OF FULL-TIME NATIONAL GUARD DUTY FOR ADMINISTRATION OF THE RESERVE COMPONENTS.

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

"(a) ceilings for full-time reserve component field grade officers.—The number of reserve officers of the reserve components of the Army, Navy, Air Force, and Marine Corps who may be on active duty in the pay grades of O–4, O–5, O–6 for duty described in section 10211, 10302 through 10305, 12011 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32, or section 708 of title 32, may not, at the end of any fiscal year, exceed a number for that grade and reserve component in accordance with the following tables:

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<th>0–5 (LT)</th>
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<th>&quot;U.S. Air Force Reserve&quot;</th>
<th>AGR Population</th>
<th>0–4 (MAJ)</th>
<th>0–5 (LT)</th>
<th>0–6 (COL)</th>
</tr>
</thead>
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<tr>
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<tr>
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<tr>
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<td>1,298</td>
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<th>&quot;U.S. Marine Corps Reserve&quot;</th>
<th>AGR Population</th>
<th>0–4 (MAJ)</th>
<th>0–5 (LT)</th>
<th>0–6 (COL)</th>
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</thead>
<tbody>
<tr>
<td>10,000</td>
<td>807</td>
<td>447</td>
<td>141</td>
<td></td>
</tr>
<tr>
<td>12,000</td>
<td>946</td>
<td>485</td>
<td>163</td>
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</tr>
<tr>
<td>14,000</td>
<td>1,085</td>
<td>524</td>
<td>185</td>
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<tr>
<td>16,000</td>
<td>1,224</td>
<td>563</td>
<td>207</td>
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<tr>
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<td>602</td>
<td>229</td>
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<tr>
<td>20,000</td>
<td>1,502</td>
<td>641</td>
<td>251</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>&quot;Army National Guard&quot;</th>
<th>AGR Population</th>
<th>0–4 (PC)</th>
<th>0–5 (SC)</th>
<th>0–6 (MC)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>85</td>
<td>59</td>
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<tr>
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<td>125</td>
<td>99</td>
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<tr>
<td>14,000</td>
<td>178</td>
<td>168</td>
<td>108</td>
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<tr>
<td>16,000</td>
<td>220</td>
<td>210</td>
<td>138</td>
<td></td>
</tr>
<tr>
<td>18,000</td>
<td>262</td>
<td>252</td>
<td>168</td>
<td></td>
</tr>
<tr>
<td>20,000</td>
<td>304</td>
<td>294</td>
<td>208</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>&quot;U.S. Air Force Reserve&quot;</th>
<th>AGR Population</th>
<th>0–4 (PC)</th>
<th>0–5 (SC)</th>
<th>0–6 (MC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>93</td>
<td>85</td>
<td>59</td>
<td></td>
</tr>
<tr>
<td>12,000</td>
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<td>20,000</td>
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<td>294</td>
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</table>

<table>
<thead>
<tr>
<th>&quot;U.S. Navy Reserve&quot;</th>
<th>AGR Population</th>
<th>0–4 (PC)</th>
<th>0–5 (SC)</th>
<th>0–6 (MC)</th>
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</thead>
<tbody>
<tr>
<td>10,000</td>
<td>807</td>
<td>447</td>
<td>141</td>
<td></td>
</tr>
<tr>
<td>12,000</td>
<td>946</td>
<td>485</td>
<td>163</td>
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</tr>
<tr>
<td>14,000</td>
<td>1,085</td>
<td>524</td>
<td>185</td>
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</tr>
<tr>
<td>16,000</td>
<td>1,224</td>
<td>563</td>
<td>207</td>
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<tr>
<td>18,000</td>
<td>1,363</td>
<td>602</td>
<td>229</td>
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<tr>
<td>20,000</td>
<td>1,502</td>
<td>641</td>
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</table>

<table>
<thead>
<tr>
<th>&quot;U.S. Marine Corps Reserve&quot;</th>
<th>AGR Population</th>
<th>0–4 (PC)</th>
<th>0–5 (SC)</th>
<th>0–6 (MC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>807</td>
<td>447</td>
<td>141</td>
<td></td>
</tr>
<tr>
<td>12,000</td>
<td>946</td>
<td>485</td>
<td>163</td>
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</tr>
<tr>
<td>14,000</td>
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<td>524</td>
<td>185</td>
<td></td>
</tr>
<tr>
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<tr>
<td>18,000</td>
<td>1,363</td>
<td>602</td>
<td>229</td>
<td></td>
</tr>
<tr>
<td>20,000</td>
<td>1,502</td>
<td>641</td>
<td>251</td>
<td></td>
</tr>
</tbody>
</table>
subsection (a) for the current fiscal year for
in a controlled grade authorized pursuant to
ative duty or full-time National Guard duty
reserve enlisted members that may be on ac-
tion is in the national interest, the
mination by the Secretary of Defense that
GRADE CEILINGS.—Whenever the number of
bers may be applied to increase the number
ings.—If the total number of members serv-
ting in the first column of the appropriate
between the respective numbers of the two
strengths. If the total numbers of members
"(b) GRADE SUBSTITUTION FOR LOWER
GRADE CEILINGS.—Whenever the number of members serving in pay grade E-8 for
they described in subsection (a) is less than the
number authorized for that grade under this
section, the difference between the two num-
bers may be applied to increase the number
authorized under this section for pay grade E-8.
(c) DETERMINATION OF AUTHORIZED
Ceilings.—If the total number of members serv-
ing in the grades prescribed in the above
ables is between, any two consecutive
numbers in the first column of the applica-
table, the corresponding authorized
strengths for each of the grades shown in
that table, for that component, are deter-
mained by mathematical interpolation be-
tween the respective numbers of the two
strengths. If the total numbers of members
serving on AGR duty in the first column are
greater or less than the figures listed in the
first column of the appropriate table, the
Secretary concerned shall fix the cor-
responding strengths for the grades shown in
that table at the same proportion as re-
flected in the nearest limit shown in the
table.
(d) SECRETARIAL WAIVER.—Upon deter-
mination by the Secretary of Defense that
such action is in the national interest, the
Secretary may increase the number of senior
reserve enlisted members that may be on ac-
tive duty or full-time National Guard duty
in a controlled grade authorized pursuant to
subsection (a) for the current fiscal year for
any of the Reserve components by a number
equal to not more than 5% of the authorized
strengths in that grade.
SEC. 410. INCREASE IN AUTHORIZED STRENGTHS
FOR AIR FORCE OFFICERS ON AC-
TIVE DUTY IN THE GRADE OF MAJOR.

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

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

TITLE V—MILITARY PERSONNEL POLICY
Subtitle A—Officer Personnel Policy
Sec. 501. Elimination of Certain Medical and
Dental Requirements for Army Early-Deployers.

(a) Secretary—The Secretary of the Army,
acting through the Assistant Secretary of
the Army for Financial Management and
Comptroller, is authorized to determine the
extent to which, and the period for which,
hospitalization or health care services of
Army personnel deployed in support of
Operations ENDURING FREEDOM or
IRAQI FREEDOM may be provided, if the
Secretary determines such services are
necessary. The Secretary shall provide such
determination in writing to the
President, the Secretary of the Navy, the
Secretary of the Air Force, the Secretary of
Defense, the House Armed Services
Committee, and the Senate Armed Services
Committee no later than 30 days prior to the
commencement of the period for which such
services are provided.

(b) Waiver—The Secretary of the Army,
acting through the Assistant Secretary of
the Army for Financial Management and
Comptroller, is authorized to grant, in
writing, a waiver of the provisions of
section 7 of Public Law 108-135 as applicable
to Army personnel deployed in support of
Operations ENDURING FREEDOM or
IRAQI FREEDOM if the Secretary
determines such services are necessary and
the determination is made in writing to the
President, the Secretary of the Navy, the
Secretary of the Air Force, the Secretary of
Defense, the House Armed Services
Committee, and the Senate Armed Services
Committee no later than 30 days prior to
the commencement of the period for which
such services are provided.

(c) Secretary of Defense—The Secretary of
Defense shall provide the House Armed
Services Committee and the Senate Armed
Services Committee with the determination
required in paragraph (a) and the written
waiver required in paragraph (b) no later than
30 days prior to the commencement of the
period for which such services are provided.

ACCONGMENTAL RECORD—SENATE
June 29, 2001

"U.S. Air Force Reserve"

<table>
<thead>
<tr>
<th>Pay Grade</th>
<th>E-8 (SMSGT)</th>
<th>E-9 (SMSGT)</th>
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<tr>
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</tr>
<tr>
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<td>150</td>
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"Air National Guard"

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<th>E-9 (STMA)</th>
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"U.S. Navy Reserve"

<table>
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<th>Pay Grade</th>
<th>E-8 (SMSGT)</th>
<th>E-9 (SMSGT)</th>
</tr>
</thead>
<tbody>
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<tr>
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<tr>
<td>8,000</td>
<td>800</td>
<td></td>
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</tbody>
</table>

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

(h) TRANSITIONAL HEALTH BENEFITS.—Section 1146 of title 10, United States Code, is amended by—

(1) in subsection (a)(1), by striking “December 31, 2001” and inserting “September 30, 2004”;

(2) in subsection (c)(1), by striking “December 31, 2001” and inserting “September 30, 2004”;

(3) in subsection (e), by striking “December 31, 2001” and inserting “September 30, 2004”;

(4) in clause (i) of paragraph (2), by striking “December 31, 2001” and inserting “September 30, 2004”;

(i) TRANSITIONAL COMMISSARY AND EXCHANGE BENEFITS.—Section 1166 of such title is amended by—

(1) in subsection (a)(3), by striking “December 31, 2001” and inserting “September 30, 2004”;

(2) in subsection (b), by striking “December 31, 2001” and inserting “September 30, 2004”;

(j) DESIGNATION OF CERTAIN ACTIONS.—Section 503(c)(1) of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1143a note) is amended by—

(1) in paragraph (2), by striking “December 31, 2001” and inserting “September 30, 2004”;

(2) in subsection (e), by striking “December 31, 2001” and inserting “September 30, 2004”;

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

(1) in paragraph (1), by striking “December 31, 2001” and inserting “September 30, 2004”;

(2) in paragraph (2), by striking “December 31, 2001” and inserting “September 30, 2004”;


(m) TEMPORARY SPECIAL AUTHORITY FOR FORCE REDUCTION PERIOD RETIREMENTS.—Section 4411(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking “October 1, 2001” and inserting “October 1, 2004”.

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

(p) SECTION 1552 OF TITLE 10.—Section 1552 of title 10, United States Code, is amended by—

(1) in subsection (a), by striking “December 31, 2001” and inserting “September 30, 2004”;

(2) in subsection (b), by striking “December 31, 2001” and inserting “October 1, 2004”;

(3) in subsection (c), by striking “December 31, 2001” and inserting “October 1, 2004”;

(4) in subsection (d), by striking “December 31, 2001” and inserting “October 1, 2004”;

(q) SECTION 1523(i) OF TITLE 10.—Section 1523(i) of title 10, United States Code, is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(r) SECTION 1702 OF TITLE 10.—Section 1702 of title 10, United States Code, is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

SEC. 506. REVIEW OF ACTIONS OF SELECTION BOARD.

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

§ 1556. Exclusive remedies in cases involving selection boards.

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

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

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

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

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

(B) Nothing in subparagraph (A) shall be construed to permit a person to be on active duty or in an active status in a reserve component after the date on which the person would have been separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be, in an action of a selection board that is corrected under subsection (a).

(3) If the person does not consent to a restoration or active status in a reserve component as the case may be, only the relief under section 1552 of this title shall be available to a person for correcting an action or recommendation of a selection board, or the action taken by the Secretary concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the person has first been considered by a special board under this section or the Secretary concerned has denied such consideration.

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

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

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

(2) Nothing in this section limits authority to correct a military record under section 1556 of this title.

(3) A court of the United States may set aside a determination by the Secretary concerned on the report of a special board, or the action taken by the Secretary concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the person has first been considered by a special board under this section or the Secretary concerned has denied such consideration.

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

(2) Nothing in this section limits authority to correct a military record under section 1556 of this title.

(3) A court of the United States may set aside a determination by the Secretary concerned on the report of a special board, or the action taken by the Secretary concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the person has first been considered by a special board under this section or the Secretary concerned has denied such consideration.

(2) Nothing in this section limits authority to correct a military record under section 1556 of this title.
board nor denied consideration by a special board, the Secretary shall be deemed to have been denied such consideration.

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

"(2) Under regulations prescribed in accordance with subsection (d), the Secretary concerned may exclude an individual application from the time limits prescribed in this subsection if the Secretary determines that the application warrants a longer period of consideration.

"(B) Promotion, Retirement, or Transfer to Inactive Duty of the Armed Forces to beSelected for Promotion by a Special Selection Board Under Section 1552 of Title 10—

(A) means a board that the Secretary concerned convenes under any authority to consider an officer or former officer for promotion, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component of the armed forces; and

(B) includes a board convened under section 1552 of title 10, United States Code, if designated as a special selection board under this section.

"(C) does not include—

"(1) a board convened under section 628 of this title; or

"(2) The term ‘special selection board’—

"(A) means a selection board convened under section 573(a), 580, 580a, 591, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or 14705 of this title, and any other board convened by the Secretary concerned under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces; and

"(B) does not include—

"(1) a board convened under section 573(a), 611(a), or 14101(a) of this title;

"(ii) a special board; or

"(iii) a special selection board convened under section 1552 of this title.

"(2) The term ‘selection board’—

"(A) means a board convened under section 573(c), 580, 580a, 591, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or 14705 of this title, and any other board convened by the Secretary concerned under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component, for the purpose of reducing the number of persons serving in the armed forces; and

"(B) does not include—

"(1) a board convened under section 573(a), 611(a), or 14101(a) of this title;

"(ii) a board convened under section 1552 of this title;

"(iii) a special selection board convened under section 1552 of this title;

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

"(B) Clerical Amendment.—The table of sections at the beginning of chapter 79 of this title is amended by adding at the end the following:

"555. Exclusive remedies in cases involving selection boards.

(c) Special Selection Boards.—Section 628 of such title is amended—

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

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

"(g) Limitations of Other Jurisdiction.—No official or court of the United States may—

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

Sec. 511. Retirement of Reserve Personnel.

Sec. 512. Amendment to Reserve Component Personnel Policy.

Sec. 513. Indefinite Leave Reserve Physical Examination Requirement.

Sec. 514. Benefits and Protections for Members in a Funeral Honors Duty Status.

Sec. 515. Funeral Honors Duty Performed by Members of the National Guard.
Such chapter is amended by adding at the end the following new item: “12108. Enlisted members: discharge or retirement for years of service or for age.”

SEC. 112. AMENDMENT TO RESERVE PERSTEMPO DEFINITION.

Section 101(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “active” before “service” and adding at the end the following new sentence: “For the purpose of this definition, the housing in which a member of a reserve component resides is either the housing the member normally occupies when on garrison duty or the member’s permanent civilian residence.”

(3) by striking paragraph (2), and

(4) in paragraph (3) (as redesignated, by striking “or” both time it appears; and inserting “in paragraph (1).”.

SEC. 113. INDIVIDUAL READY RESERVE PHYSICAL EXAMINATION REQUIREMENT.

Section 113(a) of title 10, United States Code, is amended—

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

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

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

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

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

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

SEC. 514. BENEFITS AND PROTECTIONS FOR MEMBERS OF THE FUNERAL HONORS DUTY STATUS.

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

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

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

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

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

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

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

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

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

“(3) A Reserve of an armed force who dies while performing funeral honors duty;”.

and

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

(i) striking “or” both time it appears;

(ii) inserting “or funeral honors duty” after “Public Health Service’’;

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

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

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

(A) in paragraph (1)(A), by striking “or”;

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

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

“(C) funeral honors duty;”;

and

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

(d) MILITARY AUTHORITY FOR MEMBERS OF THE COAST GUARD RESERVE.—Section 704 of title 10, United States Code, is amended by—

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

(2) by inserting “or”, and “funeral honors duty” after “inactive-duty training”.

(e) BENEFITS FOR MEMBERS OF THE COAST GUARD RESERVE.—Section 705(a) of such title 14, United States Code, is amended by—

(1) striking “or” the first time it appears in the sentence; and

(2) by inserting “or”, and “funeral honors duty” after “inactive-duty training”.

(f) BENEFITS FOR MEMBERS OF THE DEFENSE—

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

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

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

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

(a) ACTIVE DUTY STRENGTH ACCOUNTING.—Section 115(c) of title 10, United States Code is amended—

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

(2) in subparagraph (2), by striking the period and adding “and”; and

(3) by adding the following new subparagraph:

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

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

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

(c) INCREASE IN AUTHORIZED DAILY AVERAGE FOR COMMISSIONED OFFICERS IN PAY GRADES O-4, O-5 AND O-6 ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 525 of such title 10 is amended—

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

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

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

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

(1) inserting before paragraph (3)(A) the following “Limitation”:

“(3) Limitation.—(A) The Secretary of Defense may increase the total number of officers in pay grades O-5 and O-6 on active duty under section 12301(d) of this title by the number of officers serving on active duty pursuant to paragraph (3)(B) of that section during any fiscal year by a number equal to the number of officers on active duty pursuant to paragraph (3)(B) of that section during any fiscal year by a number equal to—

(B) the number of officers on active duty pursuant to paragraph (3)(B) of that section during any fiscal year by a number equal to—

(ii) the number of officers on active duty pursuant to paragraph (3)(C) of that section during any fiscal year by a number equal to—

(iii) the number of officers on active duty pursuant to paragraph (3)(D) of that section during any fiscal year by a number equal to—

(iv) the number of officers on active duty pursuant to paragraph (3)(E) of that section during any fiscal year by a number equal to—

(v) the number of officers on active duty pursuant to paragraph (3)(F) of that section during any fiscal year by a number equal to—

(vi) the number of officers on active duty pursuant to paragraph (3)(G) of that section during any fiscal year by a number equal to—

(vii) the number of officers on active duty pursuant to paragraph (3)(H) of that section during any fiscal year by a number equal to—

(viii) the number of officers on active duty pursuant to paragraph (3)(I) of that section during any fiscal year by a number equal to—

(ix) the number of officers on active duty pursuant to paragraph (3)(J) of that section during any fiscal year by a number equal to—

(x) the number of officers on active duty pursuant to paragraph (3)(K) of that section during any fiscal year by a number equal to—

(xi) the number of officers on active duty pursuant to paragraph (3)(L) of that section during any fiscal year by a number equal to—

(xii) the number of officers on active duty pursuant to paragraph (3)(M) of that section during any fiscal year by a number equal to—

(xiii) the number of officers on active duty pursuant to paragraph (3)(N) of that section during any fiscal year by a number equal to—

(xiv) the number of officers on active duty pursuant to paragraph (3)(O) of that section during any fiscal year by a number equal to—

(xv) the number of officers on active duty pursuant to paragraph (3)(P) of that section during any fiscal year by a number equal to—

(xvi) the number of officers on active duty pursuant to paragraph (3)(Q) of that section during any fiscal year by a number equal to—

(xvii) the number of officers on active duty pursuant to paragraph (3)(R) of that section during any fiscal year by a number equal to—

(xviii) the number of officers on active duty pursuant to paragraph (3)(S) of that section during any fiscal year by a number equal to—

(xix) the number of officers on active duty pursuant to paragraph (3)(T) of that section during any fiscal year by a number equal to—

(xx) the number of officers on active duty pursuant to paragraph (3)(U) of that section during any fiscal year by a number equal to—

(2) inserting “subsection (e)” after paragraph (3); and

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

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

“(D) The Secretary of Defense may increase the authorized total number of general and flag officers on active duty pursuant to paragraph (3) of the number of reserve component general and
flag officers on active duty under section 12305 of this title in support of a contingency operation, as defined in section 101(a)(13) of this title.’’.

SEC. 517. RESERVE HEALTH PROFESSIONALS PROGRAM EXPANDED AND MODIFIED.

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

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

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

(1) redesignating subsections (b), (c), (d) and (e) (1)(A), (1)(B), (1)(C), (d), (e) and (f); and
(2) inserting the following new subsection:

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

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

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

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

(i) complete the educational phase of the program;

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

(iii) participate in a residency program; and

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

(2) Under the agreement—

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

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

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

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

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

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

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

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

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

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

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

‘‘(D)(i) on active duty under section 12305(d) of this title; provided under subparagraph (C), provided the call or order to active duty, as prescribed in regulations of the Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;’’.

(b) RETROACTIVE APPLICATION.—(1) Officers who were placed on the reserve active status list under section 641(D)(D)(i), as amended by section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–462; 120 Stat. 2117); and officers who were placed on the reserve active status list under section 632–637 of this title by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

(2) Under the agreement—

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

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

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

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

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

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

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

‘‘(D) on active duty as described in subsection (a),’’ after ‘‘on active duty as described in subsection (a),’’ after ‘‘on active duty as described in subsection (a),’’ after ‘‘on active duty as described in subsection (a),’’ after ‘‘on active duty as described in subsection (a),’’ after ‘‘on active duty as described in subsection (a).’’

SEC. 520. AUTHORITY FOR TEMPORARY WAIVER OF THE REQUIREMENT FOR A BACCALAUREATE DEGREE FOR PROMOTION OF RESERVE OFFICERS OF THE ARMED FORCES.


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

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

SEC. 522. AUTHORITY OF THE PRESIDENT TO REPEAL THE LIMITATION ON NUMBER OF PERSONNEL PERFORMING PROMOTION, RETIREMENT AND SEPARATION DUTIES.

Section 12905 of title 10, United States Code, is amended by striking at the end the following new subsection (c):

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

Subtitle C—Education and Training

Sec. 531. Authority for the Marine Corps University to Award the Degree of Master of Strategic Studies.

Sec. 532. Reserve Component Distributed Learning.

Sec. 533. Repeal of Limitation on Number of Junior Reserve Officers’ Training Corps (JROTC) Units.

Sec. 534. Modification of the Nurse Officer Candidate Assignment Program Restriction on Students Attending Civilian Educational Institutions with Senior Reserve Officers’ Training Programs.

Sec. 535. Defense Language Institute Foreign Language Center.

Sec. 5351. Authority for the Marine Corps University to Award the Degree of Master of Strategic Studies.

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

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

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

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SEC. 522. RESERVE COMPONENT DISTRIBUTED LEARN-ING.

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

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

(b) DEFINITION OF INACTIVE-DUTY TRAIN-ING.—Section 101(2)(c) of title 37, United States Code, is amended by striking "or" and inserting "but does not include work or study in connection with a correspondence course of a uniformed service".

SEC. 533. REPEAL OF LIMITATION ON NUMBER OF CONDUCTOR RESERVE OFFICERS' TRAINING CORPS (JROTC) UNITS.
Section 2631a(a)(1) of title 10, United States Code, is amended by striking the second sentence.

SEC. 534. MODIFICATION OF THE NURSE OFFICER CANDIDATE ACCESSION PROGRAM REGULATIONS TO STREN-GEN CIVILIAN EDUCATIONAL INSTITUTIONS WITH SENIOR RESERVE OFFICERS' TRAINING PROGRAMS.
Section 2130a of title 10, United States Code, is amended—

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

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

SEC. 535. DEFENSE LANGUAGE INSTITUTE FOR-EIGN LANGUAGE CENTER.

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

(b) The degree shall be conferred upon any student under this section unless the Pro-vest certifies to the Commandant of the In-stitute that the student has satisfied all the requirements prescribed for such degree.

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

Subtitle D—Decorations, Awards, and Commendations

Sec. 541. Authority for Award of the Medal of Honor to Humbert R. Versace for Valor During the Vietnam War.

Sec. 542. Issuance of Duplicate Medal of Honor.

Sec. 543. Repeal of Limitation on Award of Bronze Star to Members in Receipt of Special Pay.

SEC. 544. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Army may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this section shall not constitute the award of more than one medal of honor within the meaning of section 3741(a) of this title."

Sec. 545. REPEAL OF LIMITATION ON AWARD OF BRONZE STAR TO MEMBERS IN RECEIPT OF SPECIAL PAY.

Section 1131 of title 10, United States Code, is repealed.

Subtitle E—Uniform Code of Military Justice

Sec. 551. Revision of Punitive UCMJ Article Regarding Drunken Operation of Vehicle, Aircraft, or Vessel.

Sec. 552. REVISION OF PUNITIVE UCMJ ARTICLE REGARDING DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.

(a) STANDARD FOR DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL. — The definition of "0.08 grams or more of alcohol" both places shall apply to offenses committed on or after the date of the enactment of this Act and to offenses committed before such date where the definition of "0.08 grams or more of alcohol" is applicable.

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

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in Basic Pay for Fiscal Year 2002.


Sec. 603. Funeral Honors Duty, Allowance for Retirees.

Sec. 604. Basic Pay Rate for Certain Reserve Commissioned Officers with Prior Service as an Enlisted Member or Warrant Officer.

Sec. 605. Family Separation Allowance.

Sec. 606. Housing Allowance for the Chaplain for the Corps of Cadets, United States Military Academy.

Sec. 607. Clarify Amendment that Space-Required Travel for Annual Training Reserve Duty Does Not Oblige Transportation Allow-ances.

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

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal years 2002 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.
SEC. 602. PARTIAL DISLOCATION ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.

(a) Authorization of Partial Dislocation Allowance.—Section 407 of title 37, United States Code is amended—

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

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

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

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

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

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

and

(4) in subsection (d)(1) as redesignated by paragraph (1) of this subsection, in the beginning “The amount” and inserting “Except as provided in subsection (c), the amount”.

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

SEC. 603. FUNERAL HONORS DUTY ALLOWANCE FOR RETIREES.

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

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

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

“(d) Concurrent Payment.—Notwithstanding any other provision of law, the allowance paid to a retired member of the armed forces under subsection (a) shall be in

MONTHLY BASIC PAY—*,**,***

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* Basic pay for 0–7 to 0–10 is limited to the rate of basic pay for level III of the Executive Schedule. Basic pay for 0–6 and below is limited to level V of the Executive Schedule.
** While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is $13,598, regardless of cumulative years of service computed under section 204 of title 37, United States Code.
*** While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $5,382.90, regardless of cumulative years of service computed under section 204 of title 37, United States Code.

AN ASSEMBLED MEMBER OR WARRANT OFFICER

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An enlisted member or warrant officer
addition to any other compensation authori-
zed under section 97, title 37, and title 38 to
which the retired member may be entitled".

SEC. 604. BASIC PAY RATE FOR CERTAIN RE-
SERVE COMMISSIONED OFFICERS WITH VI-
SITED MEMBER OR WARRANT OFFI-
CER.

Section 301(c) of title 37, United States Code, is amended by inserting "or" and inserting "or as a warrant officer and enlisted member" following "or as a warrant officer".

SEC. 605. FAMILY SEPARATION ALLOWANCE.

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

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

SEC. 606. HOUSING ALLOWANCE FOR THE CHAP-
LAIN FOR THE CORPS OF CADETS, UNITED STATES MILITARY ACADEMY.

Section 4337 of title 10, United States Code, is amended by striking the second sentence and inserting "Notwithstanding any other provision of law, the chaplain is entitled to the same basic allowance for housing al-
lowed to an active soldier, colonel, and to fuel and light for quarters in kind.".

SEC. 607. CLARIFYING AMENDMENT THAT SPACE-
REQUIRED TRAVEL FOR ANNUAL
TRAINING RESERVE DUTY DOES NOT
OBViate TRANSPORTATION ALLOW-
ANCES.

Section 323(a) of title 10, United States Code, is amended by striking "annual train-
ning duty or" each time such term appears.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Authorize the Secretary of the Navy to Prescribe Submarine Duty Incentive Pay Rates.

Sec. 612. Extension of Authorities Relating to Payment of Other Bonuses and Special Pays.

Sec. 613. Extension of Certain Bonuses and Special Pay Authorities for Nurse Officer Candidates, Reg-
istered Nurses, Nurse Anes-
thesiTS, and Dental officers.

Sec. 614. Extension of Authorities Relating to Nuclear Officer Special Pays.

Sec. 615. Extension of Special and Incentive Pays.

Sec. 616. Accession Bonus for Officers in Critical Skills.

Sec. 617. Extension of Certain Bonuses and Special Pay Authorities for Nuclear Officer Candidates, Reg-
istered Nurses, Nurse Anes-
thesiTS, and Dental officers.

Sec. 618. Hazardous Duty Incentive Pay: War and Terrorist Activities.

Sec. 619. AUTHORIZE THE SECRETARY OF THE
NAVY TO PRESCRIBE SUBMARINE DUTY INCENTIVE PAY RATES.

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

"(b) A member who meets the require-
ments prescribed by the Secretary of the Navy, but not more than $1,000 per
month, to monthly submarine duty incentive pay in
an amount prescribed by the Secretary of
the Navy."

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

SEC. 612. Extension of Authorities Relat-
ing to Payment of Other Bo-

nuses and Special Pays.

(a) A Viation Officer Retention Bonus.

Section 301(b)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(b) Retention Bonus for Active Mem-
bers of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003"

(c) Enlistment Bonus.—Section 306(e) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(d) Retention Bonus for Members Quali-
fied in a Critical Military Skill.—Section 323(a)(1) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

SEC. 613. Extension of Certain Bonuses and Special Pay Authorities for Nuclear Officer Candidates, Reg-
istered Nurses, Nurse Anes-
thesiTS, and Dental officers.

(a) Nurse Officer Candidate Accession Bonus.—Section 301(d) of such title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(b) Accession Bonus for Registered Nurses.—Section 302(a)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(c) Incentive Special Pay for Nurses Anes-
thesiTS.—Section 302a(a)(1) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(d) Accession Bonus for Dental Offi-
cers.—Section 302a(a)(1) of such title 37 is amended by striking "September 30, 2002" and inserting "September 30, 2003".

SEC. 614. Extension of Authorities Relat-
ing to Nuclear Officer Special Pays.

(a) Special Pay for Nuclear-Qualified Officers Extending Period of Active Serv-
ice.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2003".

(b) Nuclear Career Accession Bonus.— Section 312c(e) of such title 37 is amended by striking "December 31, 2001" and inserting "December 31, 2003".

(c) Nuclear Career Annual Incentive Bonus.—Section 312(d) of such title 37 is amended by striking "December 31, 2001" and inserting "December 31, 2003".

SEC. 615. Extension of Special and Incen-
tive Pays.

(a) Special Pay for Reserve Health Pro-
fessionals in Critically Short Waiter-
Specialties.—Section 302(g) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) Selected Reserve Reenlistment Bonus.—Section 306(b) of such title 37 is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(C) Selected Reserve Enlistment Bonus.—Section 306(e) of such title 37 is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(d) Special Pay for Enlisted Members Assigned to Certain High Priority Units.— Section 303 of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 306(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(f) Reenlistment Enlistment and Reen-
lishment Bonus.—Section 306(b) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(g) Prior Service Enlistment Bonus.— Section 306(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(h) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of title 10, United States Code, is amended by striking "January 1, 2002" and inserting "January 1, 2003".


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

"§ 324. Special Pay: officer critical skills ac-
cession bonus

(a) Accession Bonus Authorized.—Under regulations prescribed by the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, and in the Coast Guard, an individual who executes a written agree-
ment to accept a commission as an officer of an armed force and serve on active duty in an officer critical skill for the period speci-
fied in the agreement may be paid an ac-
cession bonus not to exceed $20,000 upon accept-
ance of the written agreement by the Sec-

retary concerned.

(b) Limitation on Eligibility for Bonus.—An individual may not be paid a bonus under subsection (a) if the individual has received, or is receiving, an accession bonus for the same period of service under subsections 302a, 302b, or 312b.

(c) Proration.—The term of an agree-
ment and the amount of the payment under subsection (a) may be prorated.

(d) Payment Method.—Upon acceptance of the written agreement by the Secretary concerned, the total amount payable pursu-
ant to the agreement under subsection (a) becomes fixed and may be paid by the Sec-

retary concerned in a lump sum or installments.

(e) Repayment.—(1) If an individual who has entered into an agreement under subsection (a) has received all or part of a bonus under this section fails to accept an appoint-
ment or to commence or complete the total period of active duty in the designated critical skill specified in the agreement, the Sec-

retary concerned may require the individual to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, any or all sums paid to the indi-

vidual under this section.

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

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

(f) Exception.—If this section, the term "officer critical skill" means a skill des-
ignated as critical with respect to accession of officers to the skill by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.
CONGRESSIONAL RECORD—SENATE
June 29, 2001

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

Section 234(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(d) Storage costs payable under this subsection may be paid in advance.”

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

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

(1) in subsection (a)—

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

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

“(2) If a dependent of a deceased member who is authorized travel and transportation allowances under this section is unable to travel unassisted to and attending the funeral ceremonies of the deceased member—

(1) because of—

(i) age;

(ii) physical condition; or

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

(B) there are costs qualified for travel and transportation allowances under this section available and qualified to serve as an attendant for the dependent while traveling to and attending the burial ceremonies, an attendant may be paid roundtrip travel and transportation allowances under this section.”;

(2) in subsection (b)—

(A) by striking “(b)(1) Except as provided in paragraph (2)” and inserting “(b) LIMITATION ON ALLOWANCES.—(1) Except as provided in paragraphs (2) and (3); and

(B) by inserting before the period at the end “the time necessary for such travel”;

and

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

and

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

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

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

“DEFINITIONS.—(1) In this section, the term “dependents” means—

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

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

(C) if no person described in subparagraph (A) or (B) is paid travel and transportation allowances under this section, then—

(i) the person who directs the disposition of the remains of the deceased member under section 404 of title 10, United States Code, and two additional persons selected by that person who are closely related to the deceased member;

(ii) in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under section 1408(c) such title to direct the disposition of the remains if individual identification had been made and two additional persons selected by that person who are closely related to the deceased member.

(ii) in the case of a common grave in a national cemetery, the term “burial ceremonies” includes—

(A) an interment of casketed or cremated remains;

(B) a placement of cremated remains in a columbarium;

(C) a memorial service for which reimbursement is authorized under section 1482(e)(2) of title 10; and

(D) a burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.”

(b) CONFORMING AMENDMENTS.—(1) Section 1402 of title 10, United States Code, is amended by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.


SEC. 624. SHIPMENT OF PRIVATELY OWNED VEHICLES WHEN EXECUTING CONUS PERMANENT CHANGE OF STATION MOVES.

Section 234(h)(1) of title 10, United States Code, is amended by inserting before the period “the ceilings when executing CONUS permanent change of station moves”.

SEC. 631. MONTGOMERY GI BILL—SELECTED RESERVE COMPONENT MEMBERS.

Sec. 632. Improved Disability Benefits for Certain Reserve Component Members.

Sec. 633. Acceptance of Scholarships by Officiors Participating in the Funded Legal Education Program.

SEC. 631. MONTGOMERY GI BILL—SELECTED RESERVE ELIGIBILITY PERIOD.

Section 1613(a)(1) of title 10, United States Code, is amended by striking “10-year” and inserting “14-year”.

SEC. 632. IMPROVED DISABILITY BENEFITS FOR CERTAIN RESERVE COMPONENT MEMBERS.

(a) MEDICAL AND DENTAL CARE FOR MEMBERS.—Section 1074(a)(3) of title 10, United States Code, is amended by inserting before the period “the ceilings when executing CONUS permanent change of station moves”.

(b) MEDICAL AND DENTAL CARE FOR DEPENDENTS.—Section 1074(a)(2)(C) of such title 10 is amended by inserting before the period “the ceilings when executing CONUS permanent change of station moves”.

(c) ELIGIBILITY FOR DISABILITY RETIREMENT OR SEPARATION.—(1) Section 1206(2)(B)(iii) of such title 10 is amended by inserting before the semicolon “the ceilings when executing CONUS permanent change of station moves”.

(2) Section 1206(2) of such title 10 is amended by inserting before the semicolon “the ceilings when executing CONUS permanent change of station moves”.

(d) RECOVERY, CARE, AND DISPOSAL OF REMAINS.—Section 1408(c) of such title 10 is amended by inserting before the semicolon “the ceilings when executing CONUS permanent change of station moves”.

(e) ENTITLEMENT TO BASIC PAY.—(1) Section 2634(h)(1) of title 10, United States Code, is amended by inserting before the period “the ceilings when executing CONUS permanent change of station moves”.

(f) ELIGIBILITY FOR DISABILITY RETIREMENT OR SEPARATION.—(1) Section 1613(a)(1) of title 10, United States Code, is amended by inserting before the period “the ceilings when executing CONUS permanent change of station moves”.

(2) Section 1613(a)(1) of title 10, United States Code, is amended by inserting before the period “the ceilings when executing CONUS permanent change of station moves”.

SEC. 621. FUNDED STUDENT TRAVEL: EXCHANGE PROGRAMS.

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

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

(2) in subsection (b)—

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

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

“(ii) for transportation allowance under paragraph (1) for a dependent child who is attending a school outside the United States for less than one year under a program approved by the school in the continental United States and the member’s duty station outside the continental United States and return.”

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

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

“324. Special Pay: officer critical skills at

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

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

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

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

SEC. 618. HAZARDOUS DUTY INCENTIVE PAY: LIMITATION ON ALLOWANCES.

Section 301(a) of title 37, United States Code, is amended by inserting after paragraph (1) the following new paragraph:

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

Subtitle C—Travel and Transportation Allowances

Sec. 621. Funded Student Travel: Exchange Programs.

Sec. 622. Payment of Vehicle Storage Costs in Advance.

Sec. 623. Travel and Transportation Allowances for Family Members to Attend the Burial of a Deceased Member of the Armed Forces.

Sec. 624. Shipment of Privately Owned Vehicles When Executing CONUS Permanent Change of Station Moves.

Sec. 625. Payment of Vehicle Storage Costs.
SEC. 633. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 634. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 635. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 636. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 637. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 638. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 639. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 640. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 641. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 642. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.

SEC. 643. ACCEPTANCE OF SCHOLARSHIPS BY OF-

FICERS.—Section 2603 of this title shall be construed to authorize an officer to accept a scholarship under section 2603 of this title, except that an officer shall be deemed to have accepted a scholarship under section 2603 of this title if the officer—

(a) accepts a scholarship under subsection (a) of section 2603 of this title, 

(b) has an offer to accept a scholarship under subsection (a) of section 2603 of this title, or 

(c) has an offer to accept a scholarship under section 2603 of this title, but the offer is not accepted.
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apply to an employee for purposes of qualifying for a position in the line of work the employee was serving on October 1, 1993, or any other position in the same or lower grade and involving the same or lower level of responsibilities as the position in which the employee was serving on such date.

"(3) To qualify for the exceptions in subparagraphs (a) or (b) of paragraph (1) of this subsection, a civilian employee must have met one of the following requirements, or have been granted a waiver under subsection (f), on or before September 30, 2000:

"(A) A professional degree from an accredited educational institution authorized to grant baccalaureate degrees;

"(B) A baccalaureate degree from an accredited educational institution held by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to those of a professional degree.

"(C) An advanced degree from an accredited educational institution authorized to grant advanced degrees.

"(D) A professional degree from an accredited educational institution held by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to those of a professional degree.

"(E) A professional degree from an accredited educational institution held by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to those of a professional degree.

"(F) A professional degree from an accredited educational institution held by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to those of a professional degree.

Sec. 711. STREAMLINING PROCEDURES FOR THE PURCHASE OF CER TAIN GOODS.
Section 2805 of title 10, United States Code, is amended—
(1) in subsection (a) by striking the subsection designator "(a)"; and
(2) by striking subsection (b).

Sec. 712. REPEAL OF THE REQUIREMENT FOR LIMITATIONS ON THE USE OF AIR FORCE CIVIL ENGINEERING SUPPLY FUNCTION CONTRACTS.
Section 345 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–166; 118 Stat. 862), is amended by strikingparagraph (1)(D) and inserting--
"(D) by the precision level of the ball or roller bearings is rated lower than Annual Bearing Engineering Committee (ABEC) 5 or Roller Bearing Engineering Committee (RBEC) 5, or their equivalent;"

Sec. 713. ONE-YEAR EXTENSION OF COMMERCIAL ITEMS TEST PROGRAM.
Section 6020 of title 10, United States Code, is amended—
(1) in subsection (c)(1)(A), by striking ''A'' and inserting "Except as provided in clause (v) below, a"; and
(2) by adding at the end the following new clause (v):
"(v) Notwithstanding clause (iii) or chapter 37 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property, which are provided by the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common areas maintenance include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.".

Sec. 714. MODIFICATION OF LIMITATION ON REMOVAL OR Dismantlement OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.
Section 1302(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–261; 112 Stat. 862), is further amended by striking paragraph (1)(D).

Subtitle D—Military Construction General Provisions
Sec. 715. Exclusion of Unforeseen Environmental Remediation from the Limitation on Cost Increases for Military Construction and Family Housing Construction.
Sec. 716. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 717. LEASEBACKS OF BASE CLOSURE PROPERTY.
(a) 1990 LAW.—Section 2905(b)(4)(E) of the Defense Authorization Act for Fiscal Year 1990 (Public Law 101–510; 10 U.S.C. 2667 note) is amended as follows:
(1) in clause (iii), by striking "A" and inserting "Except as provided in clause (v) below, a"; and
(2) by adding at the end the following new clause (v):
"(v) Notwithstanding clause (iii) or chapter 37 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property, which are provided by the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common areas maintenance include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.".

(b) 1988 LAW.—Section 204(b)(4) of the Defense Authorization Act for Fiscal Year 1989 (Public Law 100–526; 10 U.S.C. 2667 note) is amended by adding at the end the following new subparagraph (d):
"(d) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly or indirectly, or in any other manner, property that will be transferred under this paragraph to the Secretary of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

Sec. 718. LEASEBACKS OF BASE CLOSURE PROPERTY.
Sec. 720. Exclusion of Unforeseen Environmental Remediation from the Limitation on Cost Increases for Military Construction and Family Housing Construction Projects.
Subsection (d) of title 10, United States Code, is amended—
(1) by inserting "(1)" immediately following "apply to"; and
(2) by inserting immediately before the period at the end ": or (2) the costs associated with environmental hazard remediation such as asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legally required environmental hazard remediation, provided that such remediation requirements could not be reasonably anticipated at the time of budget submission".

Sec. 716. INCREASE OF OVERSEAS MINOR CONSTRUCTION THRESHOLD USING OPERATIONS AND MAINTENANCE FUNDS.
Section 2805 of title 10, United States Code, is amended—
(1) in subsection (b)(1), by striking "$500,000" and inserting "$750,000"; and
(2) in subsection (c)(1)(B), by striking "$500,000" and inserting "$750,000";

Sec. 717. LEASEBACKS OF BASE CLOSURE PROPERTY.
Sec. 718. LEASEBACKS OF BASE CLOSURE PROPERTY.
(a) 1990 LAW.—Section 2905(b)(4)(E) of the Defense Authorization Act for Fiscal Year 1990 (Public Law 101–510; 10 U.S.C. 2667 note) is amended as follows:
(1) in clause (iii), by striking "A" and inserting "Except as provided in clause (v) below, a"; and
(2) by adding at the end the following new clause (v):
"(v) Notwithstanding clause (iii) or chapter 37 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property, which are provided by the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common areas maintenance include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.".

(b) 1988 LAW.—Section 204(b)(4) of the Defense Authorization Act for Fiscal Year 1989 (Public Law 100–526; 10 U.S.C. 2667 note) is amended by adding at the end the following new subparagraph (d):
"(d) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly or indirectly, or in any other manner, property that will be transferred under this paragraph to the Secretary of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

A lease under clause (d) shall apply for a term of not to exceed 50 years, but may provide for options for renewal or extension of
the term by the department or agency concerned.

("") Except as provided in clause (v) below, a lease under clause (i) may not require rental payments by the United States.

(ii) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to that for which the lease was entered. Exercise of the authority provided by this clause shall be made in consultation with the redevelop-

Sec. 817. ALTERNATIVE AUTHORITY FOR ACQUI-
SITION AND IMPROVEMENT OF MILI-
TARY HOUSING.

(a) In GENERAL.—Subchapter IV of Chapter 169 of title 10, United States Code, is amend-

Sec. 804. Transfer of Intelligence Positions in the Department of Commerce to the National Imagery and Mapping Agency.

Sec. 801. ORGANIZATIONAL ALIGNMENT CHANGE FOR DIRECTOR FOR EXPEDITIONARY WARFARE.

Section 5038(a) of title 10, United States Code, is amended by striking "Office of the Deputy Chief of Naval Operations for Re-

The Secretary may accept, hold, administer, and use gifts and contributions of money, personal property (including loans of property), and services for the purpose of de-

"(f) LIMITATION.—The Secretary may not accept a gift or donation under subsection (b) if the acceptance of the gift or donation would compromise or appear to com-

(1) the ability of the Department of Defense, any employee of the Department or members of the armed forces to carry out the responsibilities or duty of the Department in a fair and objective manner; or

(2) the integrity of any program of the Department of Defense or any person involved in such a program.

(3) ADMINISTRATION.—The Secretary may take the following actions in the event of the mission of Regional Centers operated under this section:

(1) EMPLOYMENT AND COMPENSATION OF FACILITY STAFF.—Notwithstanding the provisions of section 5038 of title 10, United States Code, re-

terms specified in paragraph (2).

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 165 of title 10 is amended by inserting the item relating to section 2855 the following:

(2) The table of sections at the beginning of subchapter III of chapter 169 of title 10 is amended by inserting after the item relating to section 2855 the following:

"(2886. Reimbursement of funds related to the execution of military family housing privatization projects"

"(a) In GENERAL.—Chapter 169 of title 10, United States Code, is amend-

Sec. 819. ANNUAL REPORT TO CONGRESS ON DE-
SIGN AND CONSTRUCTION.

(a) In GENERAL.—Section 2861 of title 10, United States Code is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 169 of title 10 is amended by striking the item referring to section 2861.


Sec. 803. Change of Name for Air Mobility Command.

Sec. 801. ORGANIZATIONAL ALIGNMENT CHANGE FOR DIRECTOR FOR EXPEDITIONARY WARFARE.

Section 5038(a) of title 10, United States Code, is amended by striking "Office of the Deputy Chief of Naval Operations for Re-

The Secretary of Defense may, during the first year of an initiative under this Sub-

chapter, transfer funds from appropriations available for the operation and maintenance of family housing to appropriations available for the pay of military personnel in such amounts as are necessary to offset additional housing allowance costs incurred as a result of such initiative."

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of title 10 of the United States Code, is amended, by adding at the end the following new section:

"(1) The term 'Appropriate committees of Congress' means the Committees on Armed Services of the Senate and of the House of Representatives.

"(2) The term 'Contribution' means a contribution, gift or donation of funds, mate-

"(3) The term 'Supporting agencies' means the Department of Defense and the Federal government.

"(4) The term 'Secretary' means the Secretary of Defense.


"(7) The term 'Program' means a program conducted under title 10 of the United States Code.

"(8) The term 'Project' means a project conducted under title 10 of the United States Code.

"(9) The term 'Secretary of Defense' means the Secretary of Defense of the United States.

"(10) The term 'United States' means the United States of America.

"(11) The term 'United States of America' means the United States of America.
ASSIGNMENT OF ROLES AND MISSIONS.—Sec.

SEC. 810. CHANGE IN DUE DATE OF COMMERCIAL ACTIVITIES REPORT.

Section 253(e)(2) of title 10, United States Code, is amended by striking “February 1” and inserting “June 30”.

Subtitle C—Other Matters

Sec. 821. Documents, Historical Artifacts, and Obsolete or Surplus Materials.

(a) In General.—Section 23501 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “subsections (c)” and inserting “(c)(1)”;

(2) in subsection (b), by striking “subsections (c)” and inserting “(c)(2)”;

(3) in subsection (c),—

(A) by striking “(c) This section” and inserting “(c)(1) Subsection (a)”;

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

“(2) Subsection (b) applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and obsolete or surplus material.”;

(b) CONFORMING AMENDMENT.—The heading of section 23501 of title 10, United States Code, is amended by striking “June 30”.

Sec. 822. CHARTER AIR TRANSPORTATION OF MEMBERS OF THE ARMED FORCES.

(a) In General.—Section 2372 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the catch-line and sections (a)(1) Planning; Advice; Policy Formulation;—”; and

(2) by striking subsection (b).

(b) ROLES AND MISSIONS AS PART OF DEFENSE OR STRATEGIC PLANNING.—Subsection 118(e) of such title 10 is amended by inserting after the first sentence the following two new sentences: “The Chairman shall also include in his annual assessment of functions (or roles and missions) to the Armed Forces and recommendations for change the Chairman considers necessary to achieve the maximum efficiency of the Armed Forces. This roles and missions assessment should consider the unnecessary duplication of effort among the armed forces and changes in technology that can be applied effectively to warfare.”.

Sec. 813. Change in Due Date of Commercial Activities Report.

Section 2561(g), title 10, United States Code is amended by striking “February 1” and inserting “June 30”.

VEHICLES.

(a) In General.—Section 2572 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “subsections (c)” and inserting “(c)(1)”;

(2) in subsection (b), by striking “subsections (c)” and inserting “(c)(2)”;

and

(3) in subsection (c)—

(A) by striking “(c) This section” and inserting “(c)(1) Subsection (a)”;

and

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

“(2) Subsection (b) applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and obsolete or surplus materials.”

(b) CONFORMING AMENDMENT.—The heading of section 23501 of title 10, United States Code, is amended by striking “June 30”.

Sec. 812. Elimination of Triennial Report on the Roles and Missions of the Armed Forces.

(a) REPEAL OF REQUIREMENT FOR REPORT ON ASSIGNMENTS, ROLES, AND MISSIONS.—Section 153 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the catch-line and sections (a)(1) Planning; Advice; Policy Formulation;—”; and

(2) by striking subsection (b).

(b) ROLES AND MISSIONS AS PART OF DEFENSE OR STRATEGIC PLANNING.—Subsection 118(e) of such title 10 is amended by inserting after the first sentence the following two new sentences: “The Chairman shall also include in his annual assessment of functions (or roles and missions) to the Armed Forces and recommendations for change the Chairman considers necessary to achieve the maximum efficiency of the Armed Forces. This roles and missions assessment should consider the unnecessary duplication of effort among the armed forces and changes in technology that can be applied effectively to warfare.”.
of Defense and to the head of one designated office or the authority to determine the appropriateness of the amount of indirect costs included in such charges.

(b) CLERICAL AMENDMENT.—The table of sections at the end of title 10, United States Code, is amended by adding, at the end the following new item:

“23501. Agreements for the cooperative use of ranges and other facilities upon which testing may be conducted.”

(c) AUTHORITY TO USE MAJOR RANGE AND TEST FACILITY INSTALLATIONS OF THE MILITARY DEPARTMENT OF THE DEPARTMENT OF DEFENSE CONTRACT.—Section 2681(c) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(c)”;

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

“(2) Notwithstanding the requirement for reimbursement of all direct costs under subparagraph (1), a contractor, using a Major Range and Test Facility Base installation in support of a Department of Defense requirement, may be provided access to and use of the Major Range and Test Facility Base Installations and charged for services for purposes of the contract utilizing the same criteria as applied to use of a Major Range and Test Facility Base Installation by an activity or agency of the Department of Defense. A contractor of a Department or agency of the Federal Government other than the Department of Defense shall be provided access to and use of a Major Range and Test Facility Base Installation and services in support of such contract at the discretion of the Secretary of Defense, and may be charged for access, use and services on the same basis as the Federal government Department or agency providing the contract.”

SEC. 902. COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS: ALLIED COUNTRIES.

Section 2530a of title 10, United States Code, is amended as follows:

(1) In the title for Section 2530a—by striking “allied” and inserting “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization”;

(2) Paragraph (a) is amended by striking “one or more major allies of the United States or NATO organizations” and inserting “the North Atlantic Treaty Organization (NATO) or with one or more member countries of that Organization, or with any major non-NATO ally or other friendly foreign country or NATO organization”;

(3) Paragraph (b)(1) is amended—

(A) by striking “(1)”;

(B) by striking “the North Atlantic Treaty Organization (NATO)” and inserting “NATO”;

(C) by striking “Its major non-NATO ally” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”;

(4) Paragraph (b)(2) is amended by striking “The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Technology” and inserting “The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or any other official the Secretary so determines.”

(5) Paragraph (d)(1) is amended by striking “the major allies of the United States” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization.”

(6) Paragraph (d)(2) is amended by striking “major allies of the United States” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(7) Paragraph (e)(1)(B)(2)(A) is amended by striking “one or more of the major allies of the United States.” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(8) Paragraph (e)(1)(B)(2)(B) is amended by striking “one or more major allies of the United States or NATO organizations” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(9) Paragraph (e)(1)(B)(2)(C) is amended by striking “the major allies of the United States” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(10) Paragraph (e)(1)(B)(2)(D) is amended by striking “one or more major allies of the United States” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(11) Paragraph (f)(1)(B)(1) is amended by striking “(1)”;

(12) Paragraph (f)(1)(B)(2) is amended by striking “The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report—(A) enumerating those countries to be added or deleted from the existing designation of countries designated major non-NATO allies and other friendly foreign countries for purposes of this section; and (B) specifying the criteria used in determining the eligibility of a country to be designated a major non-NATO ally for purposes of this section.”;

(13) Paragraph (g)(1)(A) is amended by striking “major allies of the United States and other friendly foreign countries” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(14) Paragraph (h) is amended by striking “(2) The term ‘major ally of the United States’ means—(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or (B) a major non-NATO ally.”;

(15) Paragraph (i)(1) is amended by striking “one or more major allies of the United States or NATO organizations” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

SEC. 903. RECOGNITION OF ASSISTANCE FROM FOREIGN NATIONS.

(a) IN GENERAL.—Chapter 5 of title 10, United States Code, is amended by inserting after section 1133 the following:

“§ 1134. Recognition of assistance from foreign nations.

“The Secretary of Defense may issue regulations, with the concurrence of the Secretary of State, authorizing members of the armed forces or civilian employees of the Department of Defense in foreign countries, to make payments to the government of any foreign nation for services or expenses incurred in support of the Department of Defense in foreign countries.”

(b) AUTHORITY FOR DESIGNATED CIVILIAN EMPLOYEES ABROAD TO ACT AS A NOTARY.—

(1) Clause (A) of section 1044a(b)(2) of title 10, United States Code, is amended by striking “legal assistance officers” and inserting “legal assistance attorneys acting as a notary.”

(2) Paragraph (b)(2)(B) of title 10, United States Code, is amended by striking “legal assistance officers” and inserting “legal assistance attorneys acting as a notary.”

(3) Paragraph (b)(4) of such section 1044a is amended by striking “and, when outside the United States, civilian employees of the armed forces of suitable training”’ after “duty status.”

SEC. 913. INAPPLICABILITY OF REQUIREMENT FOR STUDIES AND REPORTS WHEN ALL DIRECTLY AFFECTED DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES ARE REASSIGNED TO COMPARABLE PLACEMENTS.

Section 2661 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(11) INAPPLICABILITY WHEN ALL DIRECTLY AFFECTED DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES ARE REASSIGNED TO COMPARABLE PLACEMENTS.—The provisions of this section shall not apply to all directly affected Department of Defense civilian employees serving on permanent appointments.
are reassigned to comparable Federal positions for which they are qualified.

SEC. 914. PRESERVATION OF CIVIL SERVICE RIGHTS FOR EMPLOYEES OF THE FORMER DEFENSE MAPPING AGENCY.

Notwithstanding section 1612 of title 10, United States Code, the provisions of subchapters II and IV (sections 7511 through 7514 and sections 7535 through 7536, respectively) of chapter 75 of title 5, United States Code, continue to apply, for as long as the employee continues to serve as a Department of Defense employee, to the National Imagery and Mapping Agency without a break in service, to each of those former Defense Mapping Agency employees who occupied positions established under title 5, United States Code, and who on October 1, 1996, became employees of the National Imagery and Mapping Agency under paragraph 1601 a(1) of title 10, United States Code pursuant to Title XI of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–20; 110 Stat. 2075, et seq.) and for whom the provisions of chapter 75 of title 5, United States Code, applied before October 1, 1996. Each such employee, at any time, may elect in writing to waive the provisions of this section, in which case such waiver shall be permanent as to that employee.

SEC. 915. FINANCIAL ASSISTANCE TO CERTAIN EMPLOYEES IN ACQUISITION OF CRITICAL SKILLS.

The Secretary of Defense may provide the Director, National Imagery and Mapping Agency, the authority to establish an undergraduate training program with respect to civilian employees of the National Imagery and Mapping Agency that is similar in purpose, content, and administration to the program which the Secretary of Defense is authorized to establish for civilian employees of the National Security Agency under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

SEC. 916. PILOT PROGRAM FOR PAYMENT OF RE-TRAINING EXPENSES.

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2411b. Pilot program for payment of retraining expenses.

"(a) Program.—The Secretary of Defense may establish a pilot program for the payment of retraining expenses in accordance with this section to facilitate the reemploy-ment of eligible employees of the Depart-ment of Defense who are being involuntarily separated due to a reduction-in-force or due to relocation resulting from transfer of func-tion, realignment, or change of duty station. Under the pilot program, the Secretary may pay retraining incentives to encourage non-Federal employers to hire and retain such employees.

"(b) ELIGIBLE EMPLOYERS.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limit without break in service, who has been employed by the Depart-ment of Defense for a continuous period of at least 12 months and who has been given no- tice of involuntary separation to a reduction-in-force, except that such term does not in-clude—

"(1) a re-employed annuitant under sub-chapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or an-other retirement system for employees of the Government;

"(2) an employee who, upon separation from Federal service, is eligible for an im-mEDIATE annuity under subchapter III of chap-ter 83 of title 5, United States Code, or sub-chapter II of chapter 84 of such title; or

"(3) an employee who is eligible for dis-ability retirement under any of the retire-ment systems referred to in paragraph (1).

"(c) RETRAINING INCENTIVE.—(1) Under the pilot program, the Federal employer may enter into an agreement with a non-Federal employer under which the non-Federal employer agrees—

"(A) to employ an eligible person referred to in subsection (a) for at least 12 months for a salary that is mutually agreeable to the employer and such person; and

"(B) to certify to the Secretary the cost incurred by the employer for any necessary training, as defined by the Secretary, pro-vided to such eligible employee in connec-tion with the employment by that employer.

"(2) The Secretary may pay a retraining incentive to the non-Federal employer upon the employee’s completion of 12 months of continuous employment with that employer. Subject to this section, the Secretary shall prescribe the amount of the incentive.

"(3) The Secretary may pay a prorated amount of the incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

"(4) In no event may the amount of re-training incentives paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1) or $10,000, whichever is greater.

"(d) DURATION.—No incentive may be paid under the pilot program for training com-menced after September 30, 2005.

"(e) DEFINITIONS.—The following defini-tions apply in this section:

"(1) the term ‘non-Federal employer’ means an employer that is not an Executive Agency, as defined in section 105 of title 5, United States Code, or the legislative or judi-cial branch of the Federal Government.

"(2) ‘Reduction-in-force’ and ‘transfer of function’ shall have the same meaning as in chapter 35 of title 5, United States Code.

"(b) C LERICAL AMENDMENT.—The table of sections at the beginning of such Chapter 141 is amended by adding at the end the follow-ing new section:

"2411b. Pilot program for payment of re-training expenses."

Subtitle C—Other Matters

SEC. 921. Authority to Ensure Demilitarization of Significant Military Equipment Formerly Owned by the Department of Defense.

SEC. 922. Motor Vehicles: Documentary Requirements for Transportation for Military Personnel and Federal Employees on Change of Station.


SEC. 925. Access to Sensitive Unclassified Information.

SEC. 926. Water Rights Conveyance, And Then Repeal of the Joint Requirements Oversight Council.

SEC. 927. Repeal of Requirement for Separate Budget Request For Procurement of Reserve Equipment.


SEC. 921. AUTHORITY TO ENSURE DEMILITARIZATION OF SIGNIFICANT MILITARY EQUIPMENT FORMERLY OWNED BY THE DEPARTMENT OF DEFENSE.

(a) In General.—Chapter 155 of title 10, United States Code, is amended by inserting after section 2572 the following new section:

"2573. Continued authority to require demilitarization of significant military equipment.

"(a) AUTHORITY TO REQUIRE DEMILITARIZATION.—The Secretary of Defense may require any person in possession of significant mili-tary equipment formerly owned by the De-partment of Defense—

"(1) to demilitarize the equipment;

"(2) to have the equipment demilitarized by a third party;

"(3) to return the equipment to the Gov-ernment for demilitarization;

"(b) COST AND VALIDATION OF DEMILITARIZATION.—When the demilitarization of significant military equipment is carried out by the person in possession of the equipment pursuant to paragraph (1) or (2) of subsection (a), the person shall be reimbursed for all demilitarization costs, and the United States shall have the right to validate that the equipment has been demilitarized.

"(c) RETURN OF EQUIPMENT TO GOVERN-MENT.—When the Secretary of Defense re-quires the return of significant military equipment for demilitarization by the Gov-ernment, the Secretary shall bear all costs to transport and demilitarize the equipment. If the person in possession of the significant military equipment obtained the property in the manner authorized by law or regulation and the Secretary determines that the cost to demilitarize and return the property to the person is prohibitive, the Secretary shall reimburse the person for the purchase cost of the property and for the reasonable transpor-tation costs incurred by the person to pur-chase the equipment.

"(d) ESTABLISHMENT OF DEMILITARIZATION STANDARDS.—The Secretary shall issue regu-lations to prescribe what constitutes demili-tarization for each type of significant mili-tary equipment, and in such manner as ensuring that the equipment does not pose a sig-nificant risk to public safety and does not provide a significant weapon capability or loquous capability, and ensuring that any person from whom private property is taken for public use under this section receives just compensation.

"(e) EXCEPTIONS.—This section does not apply—

"(1) when a person is in possession of signif-icant military equipment formerly owned by the Department of Defense for the pur-pose of demilitarizing the equipment pursuant to a Government contract;

"(2) to small arms weapons issued under the Defense Civilian Marksmanship Program established in Title 36, United States Code.

"(3) to issues by the Department of Defense to museums where modified demilitarization has been performed in accordance with the Department of Defense Demilitarization Manual, DoD 4160.21–M–1; or

"(4) to other issues and un-demilitarized significant military equipment not covered by the provisions of the provisions of the Depart-ment of Defense Demilitarization Manual, DoD 4160.21–M–1.

"(f) DEMILITARIZATION OF SIGNIFICANT MILITARY EQUIPMENT.—In this section, the term ‘signif-icant military equipment’ means—

"(1) an article for which special export controls are warranted by the Export Control Act (22 U.S.C. 2751 et seq.) because of its capacity for substantial military utility
SEC. 922. MOTOR VEHICLES: DOCUMENTARY REQUIREMENTS FOR TRANSFERENCE FOR MILITARY PERSONNEL AND FEDERAL EMPLOYEES ON CONVEYANCE OF ANDERSEN AIR FORCE BASE.

(a) MILITARY PERSONNEL.—Section 2634 of title 10, United States Code, is amended as follows:

(1) by redesignating subsections (f), (g) and (h) as subsections (g), (h), and (i) respectively;

(2) by inserting after subsection (e) the following new subsection:

"(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. The Secretary of Defense (and the Secretary of Transportation with respect to Coast Guard when it is not operating as a Service in the Navy) will prescribe regulations designed to ensure members do not present for shipment stolen vehicles.";

(b) CIVILIAN EMPLOYEES.—Section 5727 of title 10, United States Code, is amended as follows:

(1) by redesignating subsection (f) as subsection (g) and inserting after it the following new subsection:

"(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. The Secretary of Defense (and the Secretary of Transportation with respect to Coast Guard when it is not operating as a Service in the Navy) will prescribe regulations designed to ensure members do not present for shipment stolen vehicles.";

SEC. 923. DEPARTMENT OF DEFENSE GIFT INITIATIVES.

(a) LOAN OR GIFT OF OBSOLETE MATERIAL AND ARTICLES OF HISTORICAL INTEREST.—Section 754 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting the following catchline after the subsection designator: "ADDITIONAL ITEMS TO BE DONATED BY THE SECRETARY OF THE NAVY:";

(B) by striking "books, manuscripts, works of art, drawings," and all that follows to the dash and inserting "obsolete combat or shipboard material not needed by the Department of the Navy,";

(C) in paragraph (5), by striking "World War I or World War II" and inserting "a foreign war";

(D) in paragraph (6), by striking "soldiers" and inserting "servicemen";

(E) in paragraph (8), by inserting "or memorial" after "a museum";

(2) in subsection (b), by inserting the following sentence after the subsection designator: "MAINTENANCE OF THE RECORDS OF THE GOVERNMENT:";

(3) in subsection (c), by inserting the following sentence after the subsection designator: "SECRETARIAL AUTHORITY TO MAKE GIFTS OR LOANS:"; and

SEC. 924. REPEAL OF THE JOINT REQUIREMENTS COMMISSION OVERSIGHT COUNCIL SEMI-ANNUAL REPORT.

Section 916 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1694) is repealed.

SEC. 925. ACCESS TO SENSITIVE UNCLASSIFIED INFORMATION.

(a) In General.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§2332. Limited access to sensitive unclassified information by administrative support contractors.

"(a) AUTHORITY.—Notwithstanding sections 552a of title 5, 2320 of title 10, and 1905 of title 18, United States Code, the Secretary of Defense may provide administrative support contractors with limited access to, and use of, sensitive unclassified information, provided that:

"(1) such disclosure is not otherwise prohibited by law;

"(2) access shall be limited to sensitive unclassified information that is necessary for the administrative support contractor to perform contractual duties;

"(3) administrative support contractors shall be subject to the same restrictions on using, modifying, reproducing, displaying, releasing or disclosing such sensitive unclassified information as are applicable to employees of the United States; and

"(4) administrative support contractors shall be subject to the same civil and criminal penalties for unauthorized disclosure or use of such sensitive unclassified information as are applicable to employees of the United States;

"(b) DEFINITIONS.—The following definitions apply to this section:

"(1) The term "sensitive unclassified information" means all unclassified information for which disclosure to an administrative support contractor is prohibited by the Privacy Act (5 U.S.C. §552a); section 2320 of this title; or the Trade Secrets Act (18 U.S.C. §1831).

"(2) The term "administrative support contractor" means any contractor or subcontractor who performs any of the following for or on behalf of the Department of Defense: secretarial or clerical services; data entry; document reproduction, scanning, or imaging; operation, management, or maintenance of paper-based or electronic systems; and information, installation, operation, management, or maintenance of internal or intranet systems, networks, or computer systems; and facilities or information security.

"(c) CREDENTIALS.—The table of sections at the beginning of such chapter 137 is amended by adding at the end the following new item: "2332 Limited access to sensitive unclassified information by administrative support contractors.

SEC. 926. WATER RIGHTS CONVEYANCE, ANDERSEN AIR FORCE BASE.

(a) AUTHORITY TO CONVEY.—In conjunction with the conveyance of a utility system under the authority of section 2386 of title 10, United States Code, and in accordance with all the requirements of that section, the Secretary of the Air Force may convey all right, title, and interest of the United States, or such lesser estate as the Secretary considers appropriate to serve the interests of the United States, in the water rights related to Andy South (also known as the Andersen Administrative Annex, MARBO (Marianas Bonis Base Command), and the Andersen Water Supply Annex (also known as the Tumon Water Well or the Tumon Maui Well); Air Force properties located in the area, and in the property located in the area.

(b) ADDITIONAL REQUIREMENTS.—The Secretary may exercise the authority contained in subsection (a) only if the Secretary has determined that there exists adequate supplies of potable groundwater under Andersen Air Force Base that are sufficient to meet the current and long-term requirements of the installation for water;

(2) the Secretary has determined that such supplies of groundwater are economically obtainable; and

(3) the Secretary requires the conveyee to provide a water system capable of meeting the long-term water needs for Andersen Air Force Base, as determined by the Secretary.

(c) INTERIM WATER SUPPLIES.—If the Secretary determines that it is in the best interests of the United States to transfer title to the water rights and utility systems at Andy South and Andersen Water Supply Annex prior to placing into service a new replacement water system and well field on Andersen Air Force Base, the Secretary may require that the United States have the primary right to all water produced from Andy South and Andersen Water Supply Annex prior to allowing private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States.

(d) SALE OF EXCESS WATER AUTHORIZED.—(1) If the Secretary exercises the authority contained in subsection (a), he may provide in such conveyance that the conveyee of the water system and well field may sell or otherwise transfer any portion of the water system and well field.

(2) If the Secretary does not exercise the authority contained in subsection (a), he may authorize the conveyee of the water system and well field to sell or otherwise transfer any portion of the water system and well field.
logistical support functions in support of the
year 2002.

amounts equal to the budget authority in-
ment Home Trust Fund for the Armed
dent’s Budget for fiscal year 2002.

the budget authority included in the Presi-
ments and for Defense-wide appropriations in

SEC. 927. REPEAL OF REQUIREMENT FOR SEPA-
section, ''Andersen Air Force Base'' means

''utility system'' as that term is defined in
section (a) shall be considered as part of a
utility system'' as that term is defined in

preparation for the 2002 fiscal year, including
propositions for the MFO. These agreements stipulate the types

MFO. These agreements stipulate the types

MFO that are currently performed by U.S.

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the budget authority included in the President’s Budget for fiscal
defense-wide activities in amounts equal to the

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Year 2000 (Public Law 106-65; 113 Stat. 512) extended the five-year deadline an additional two years.

The initial extension was requested because the Department of Defense implementation guidance, required by the statute, had not been finalized as of the end of FY 1999. In order to fulfill the purpose of the legislation and adequately assess the feasibility and admissibility of the sale of economic incentives, the pilot program was extended another two years from its original deadline. We are requesting an additional two-year extension to allow the opportunity for the Department to assess the feasibility of the program. States have been slower to develop emission-trading programs than initially anticipated and more time is desired to allow military installations to become familiar with the benefits of economic incentive programs.

Section 351 also provides authority to the Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or comparable emissions offsets. Federal law and regulations generally require proceeds from the sale of government property to be deposited in the U.S. Treasury. These include amounts remaining after the funds generated by reducing air emissions and selling the credits as private industry. This inhibits the reinvestment of those funds to purchase air credits needed in other areas and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPs) to attain and maintain the national ambient air quality standards (NAAQS) which are health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include “economic incentive” programs in their SIPs. Such programs encourage facilities to reduce air emissions by offering monetary incentives for the reduction of emissions of criteria air pollutants. A significant and growing number of state and local air quality districts have established various types of emission trading systems. Absent the proposed legislation, the military services would be required to remit any proceeds from the sale of economic incentives to the U.S. Treasury. The proposed legislation grants military installations authority to sell the economic incentives and retain the proceeds in order to create a local economic incentive to reduce air pollution above and beyond legal requirements. Retention and use of proceeds at the installation level is a key component of the pilot program.

Section 312 would remove the requirement for the Department of Defense to submit an annual report to Congress on its reimbursements and environmental response action costs for the top 20 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms. This reporting requirement was slated to end in December 1999 pursuant to section 601 of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66; however, it was reinstated by section 1831 of the National Defense Authorization Act for Fiscal Year 1996. The Department strongly recommends removal of this statutory reporting requirement because the data collected are not necessary for determining allowable environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on economic incentive categories of contractor overhead costs.

This reporting requirement is very burdensome on both the Department and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 20 different firms involved, but for most of these contracts the selling price for multiple locations in order to get an accurate company-wide total. In many cases the data must be derived from company records because it is not normally maintained in contractor accounting systems. After the data is collected, Department contracting officers must review, assemble, and forward the data through their respective chains of command to the Defense Contract Audit Agency for validation. After validation, the data is provided to the Department staff for consolidation into the summary report provided to Congress.

In addition, the summary data provided to Congress in the final report has shown that the Department is not expending large sums of money to reimburse contractors for such costs. The Department’s share of such costs in FY99 was approximately $11 million. In the preceding years the costs were, $13 million in FY98, $17 million for FY97, and $4 million for FY96.

Section 315 would amend section 2482(b)(1) of title 10, to extend its reach to all Defense working capital fund financial activities that provide the Defense Contract Audit Agency, and allow them to recover those administrative and handling costs the Defense Commissary Agency would be required to pay for acquiring such services.

Currently, section 2482(b)(1) restricts the amount that the United States Transportation Command could charge to the Defense Commissary Agency for such services to the price at which the service could be obtained through full and open competition, as section 466 of the Office of Federal Procurement Regulation (14 U.S.C. 83F(b)) defines such terms. These same restrictions, however, do not apply to other Defense working capital fund financial activities and preclude the United States Transportation Command from recovering “freight forwarding” costs that the Defense Commissary Agency would ordinarily have had to pay a commercial contractor

If enacted, the proposed amendment would end this inequity, by applying a single cost-effective guideline for such charges to all Defense working capital fund activities. It should also be noted that the last sentence of the proposed amendment continues the current policy of insuring that costs associated with mobilization requirements, maintenance of readiness, or establishment or maintenance of the infrastructure to support mobilization or readiness requirements, are not passed on to the customers of the Defense Commissary Agency.

This proposal will not increase the budgetary requirements of the Department of Defense.

Section 316 requires that the Defense Commissary Agency surcharge account be reimbursed for any unique share of the depreciable value of its stores when a Military Department allows the occupation of a facility—previously acquired, constructed or improved by the Department—by the Department of the Air Force, Army, Marine Corps, or Navy.”

Section 317 would permit the Defense Commissary Agency (DECA) to procure exchange merchandise at locations where no exchange facility is operated by an Armed Service Exchange. Under section 2486(b) of title 10, United States Code, the Secretary of Defense has the authority to purchase and sell as commissary store inventory a limited line of exchange merchandise. This amendment is required to obtain the necessary authority for DECA to procure the exchange merchandise items from the Armed Service Exchange. The Armed Service Exchange does not sell as commissary store inventory a limited line of exchange merchandise.

Section 318 would amend a portion of section 2482(a) of title 10 that is entitled “Private Operation” to delete overly restrictive language. The current section authorizes Commissary stores operated by private persons under a contract, but prohibits the contractor from carrying out functions for the procurement of products to be sold in the commissary or from engaging in transactions related to the actual management of the stores. Consequently, the Department is precluded from realizing the potential benefits that can be derived from the operation and management of the stores. By deleting this language a private contractor selected to operate Commissary stores would be allowed to apply best commercial practices in both store operations and supply chain management, and to achieve economy of scale savings in procurement, distribution, and transport to be passed on to the Armed Service Exchange. The Armed Service Exchange would not exceed the normal exchange retail cost less the amount of the commissary surcharge, so that the amount paid by the patron would be the same. If the Exchange cannot supply the items authorized to be sold by DECA, DECA may procure them from any authorized source subject to the limitations of section 2486(e) of title 10 (i.e., that such items are only exempt from competitive procurement if they comply with the brand name sales requirements of being sold in the commercial and or from engaging in transactions related to the actual management of the stores. Consequently, the Department is precluded from realizing the potential benefits that can be derived from the operation and management of the stores. By deleting this language a private contractor selected to operate Commissary stores would be allowed to apply best commercial practices in both store operations and supply chain management, and to achieve economy of scale savings in procurement, distribution, and transport to be passed on to the Armed Service Exchange.

Section 320 would establish permanent authority for active Department of Defense units and organizations to reimburse National Guard and Reserve units and organizations for the expenses incurred when Guard and Reserve personnel provide them intelligence and counterintelligence support. For the last five years, Congress has authorized such reimbursement in each year’s defense appropriations act. See e.g., section 8059 of the Department of Defense Appropriations Act, 2001 (Public Law 106-299, 114 Stat. 655, 687). For the past several years the language of these annual provisions has remained unchanged, and the Department proposes to establish authority for such reimbursement on a permanent basis.

Such reimbursement constitutes an exception to the general principle that funds for active DoD organizations may be expended to pay the expenses of Guard and Reserve units, and vice versa. By their training and experience, reserve intelligence personnel contribute unique contributions to the intelligence and counterintelligence programs of active DoD units and organizations. They also provide invaluable surge capability to deployments to support contingencies. The National Guard and Reserve units do not program funds for such support of active DoD units.
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and organizations, which makes it essential that the units and organizations have the authority to reimburse the affected Guard and Reserve units and organizations for the expenses they occur in providing personnel to perform such support. The budgetary impact of this reimbursement authority is in fact to further implement the principle that active units and organizations should pay for the expenses of their own programs and activities, while Guard and Reserve units and organizations should do the same.

A January 5, 1995 Deputy Secretary of Defense memorandum, “Peacetime Use of Reserve Component Intelligence Elements” approved a DoD “Implementing Plan for Improving the Utilization of the Reserve Military Intelligence Force” dated December 21, 1994. This plan explicitly recognized the requirement for an arrangement under which active units and organizations receiving reserve intelligence support would reimburse the affected reserve units for their expenses in providing such support.

This recommendation was contained in the Secretary of Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which Secretary Cohen sent to Congress on November 6, 1999.

Section 502 would amend section 640 of title 10, United States Code, to afford members whose mandatory date for separation or retirement were due to medical deferment, a period of time to transition to civilian life following their termination of medical deferment. It would afford active duty members whose mandatory separations or retirements incident to Chapter 36 or Chapter 63 of title 10, United States Code, not to exceed 30 days, following termination of suspensions made under section 640, to transition to civilian life.

As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), promotion (sections 632, 637) or selective early retirement (section 630), not to exceed 30 days, following termination of suspensions made under section 640, to transition to civilian life.

As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), promotion (sections 632, 637) or selective early retirement (section 630), not to exceed 30 days, following termination of suspensions made under section 640, to transition to civilian life.

As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), promotion (sections 632, 637) or selective early retirement (section 630), not to exceed 30 days, following termination of suspensions made under section 640, to transition to civilian life.

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technical skill required of the incumbent; to provide proper recognition and compensation for the service rendered by the Reserve Officer as the Band’s leader; and to elevate and maintain this organization’s status at an appropriate level.

Army, Marine Corps, and Air Force premilary and noncommissioned Officers/ Commanders are also 0-4 billets and selection for those positions is accomplished in a manner similar to that used by the U.S. Navy Band. Upon assignment to these positions, leaders of the Army, Marine Corps, and Air Force bands are specifically “selected” to O-4. That is not the case with the Officer-in-Charge/Leader of the U.S. Navy Band because selection for and appointment to this position is limited to the Limited Duty Officer community. As such, those selected for this special appointment are generally officers with 28-32 years of total active service at the time of selection and appointment as Officer-in-Charge/Leader, U.S. Navy Band. However, the established career path of Limited Duty Officers typically results in selection for this position while serving in a temporary capacity of lieu- tenant commander (O-4) or commander (O-5) and flow points normally do not provide an opportunity for promotion to O-4 prior to statutory retirement.

Section 504. General flag officers serving above the grade of O-8 serve in a temporary grade that is authorized by the position. Such officers generally hold a permanent grade of O-8. Under current law, for the officer to retire in a grade above O-8, the Secretary of Defense must determine and then certify to the President and the Congress that such officer served satisfactorily on active duty in the higher grade. Most officers who serve in grades above O-8 are approved for reappointment to higher grade. Section 504 would retain the requirement for the Secretary of Defense to certify that the service of an officer on active duty in a grade above O-8 was satisfactory in order for the officer to be retired in the grade above O-8, but would do away with the requirement for the Secretary of Defense to provide that certification to the President and Congress. Further, Section 504 would require the Secretary of Defense to issue written regulations to implement these procedures.

Section 505. Section 1558 of chapter 79 of title 10, 37, and 20 of the United States Code to extend temporary military drawdown authorities through Fiscal Year (FY) 2004. Most of these authorities were initially established in the FY 1991 through FY 1993 National Defense Authorization Acts (NDAA). They were designed to enable the Services to reduce their military forces through a variety of voluntary and involuntary programs and to provide benefits to assist departing members in their transition to civilian life. The FY 1994 NDAA extended these authorities through FY 1999. The Department later requested a further extension through FY 2003, but the FY 1999 NDAA only extended them through FY 2001.

Section 505 would add no new or changed programs. Rather, it would extend the expiration date by three years for existing programs, but also included all existing programs and reduction in force programs. These programs are discretionary and Service Secretaries, when authorized by the Secretary of Defense, may determine whether or not to use the programs. Transition benefits are otherwise not discretionary. Some apply either to individuals involuntarily separated during the drawdown period or to those accepting VSI or SSB. These include a transition period in which the family and member members continue to receive benefits, and exchange benefits, use of military housing, extension of separation or retirement travel, transportation, and storage benefits for up to one year, and extension of the time limitations on the Reserve Montgomery GI Bill. Others provide transition benefits to all departing members during the drawdown period, educational leave to prepare for post-military community and public service, and continued enrollment of dependents for up to one year to graduate from Department of Defense institutions.

These programs have helped the Services take large reductions in a short time. Although reductions have stabilized and drawdowns from FY 2001 to FY 2003 are expected to achieve overall end-strength, they may be necessary to accomplish force-shaping reductions. In FY 1999 and 2000, the Air Force used early retirement programs and commissioned service time waivers, and VSI/SSB to accomplish medical right-sizing and to alleviate a significant field grade imbalance in the U.S. Air Force. In FY 2001, the Air Force anticipates a continued need for drawdown tools (with associated benefit programs) to stabilize non-line end-strength. Time in service initiatives could also require limited use of drawdown tools.

Section 506. Subsection (a) adds a new section 1558 to the end of chapter 79 of title 10: The Air Force used early retirement programs and commissioned service time waivers, and VSI/SSB to accomplish medical right-sizing and to alleviate a significant field grade imbalance in the U.S. Air Force. In FY 2001, the Air Force anticipates a continued need for drawdown tools (with associated benefit programs) to stabilize non-line end-strength. Time in service initiatives could also require limited use of drawdown tools.

Section 508(b) provides that, in the case of a person who has been adversely affected by the action or recommendation of a selection board, or has been considered by a selection board, the Secretary, acting personally, may determine whether or not to use drawdown tools. The recommendation of a selection board is not entitled to judicial review.
to receive retired pay, but that pay is calculated, rather than the pay scale in effect when they retired. This is significant since the retired pay for a former member in most cases is calculated significantly lower than the pay of the Reserve component. The reason is that the pay of the Reserve component because of the pay scale used to determine the amount of retired pay. This amendment would require reservists to make a positive election to be discharged with the full understanding of the possible economic consequences of that decision.

Section 512 would add the term with respect to Reserve component members was added as section 991(b)(2) of title 10, United States Code, by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). The purpose of this definition was to ensure consistent treatment of Active and Reserve component members serving under comparable circumstances and preclude Reserve component members from being credited with deployed days when they could spend off-duty time in their homes.

As provided in the National Defense Authorization Act for Fiscal Year 2001, the Active component will count "home station training" days for members who have reached the maximum age or term of service when performing duty in a state status when performing duty in a state status in the armed forces. Members who receive "home station training" days when they could spend off-duty time in their homes.

Absent the proposed change in Section 512, an active duty member who is not eligible to receive retired pay, but that pay is calculated, rather than the pay scale in effect when they retired. This is significant since the retired pay for a former member in most cases is calculated significantly lower than the pay of the Reserve component. The reason is that the pay of the Reserve component because of the pay scale used to determine the amount of retired pay. This amendment would require reservists to make a positive election to be discharged with the full understanding of the possible economic consequences of that decision.
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Section 516 would authorize Reserve Component members who are involuntarily called to active duty without pay and without losing their status as members of the Reserve Component or on active duty under section 12301(d) of title 10, United States Code (U.S.C.), to serve in support of a contingency operation (as defined in 10 U.S.C. 101(a)(15)), to be added to the authorizing, administering, recruiting, instructing, or training the Reserve Components. It would also authorize the ceiling for general and flag officers and officers in the grades of O–6, O–5 and O–4 serving on active duty in those grades to be increased by a number equal to the number of officers in each pay grade serving on active duty in support of a contingency operation. This ceiling would be increased by a number equal to the number of enlisted members in those grades to be increased by a number equal to the number of enlisted members in each pay grade serving on active duty in support of a contingency operation.

Currently, Reserve Component members who are involuntarily called to active duty are exempt from the strength limitations in sections 115, 517 and 523 of title 10. Just as the Services involuntarily call Reserve Component members to active duty under section 10 U.S.C. 12304, to meet the operational requirements to support a contingency, the Services also use volunteers from their Reserve Component to meet the operational requirements of a contingency operation. These volunteers are called to active duty under 10 U.S.C. 12301(d). Regardless of the authority used, a volunteer called to active duty, the additional manpower represents an unplanned expansion of the force to meet operational requirements. This authority to increase the end strength limits and grade ceilings would permit the Services to meet contingency operation requirements without exceeding their active manpower programmed for other national security objectives. Finally, absent such an authority, the Services have an incentive to use non-volunteers to support these operations to avoid adversely affecting their end strength. This authority to expand the force by the number of Reserve Component members serving on active duty under section 10 U.S.C. 12301(d) to a student who has been accepted into an accredited medical or dental school. Section 517 would further amend section 12601 to authorize payment of subsequent financial assistance to an officer who received financial assistance under this section while a student enrolled in medical or dental school and has now graduated and enters residency training in a healthcare professions wartime skill designated by the Secretary of Defense as critically short. When such a student agrees to financial assistance for residency training, the two-for-one service commitment previously incurred for financial assistance while attending medical or dental school may be reduced to one year for each year for each year, or part thereof, of financial assistance previously provided. However, the service obligation incurred for residency training would remain at two-for-one. Finally, Section 517 would authorize the service obligation incurred for financial assistance for residency training to be incurred in six-month increments for those agreements that require a two-for-one pay back. Thus, for every six months, or part thereof, of benefits paid through this program, the recipient could be obligated for one year of service in the Selected Reserve. Currently, two years of service obligation is incurred for each partial year of financial assistance provided, regardless of the number of months in that partial year. These amendments would provide a more robust incentive program that recruits and orients officers to the required professions in order to entice them into joining the Guard or Reserve. The current medical recruiting incentives, which originated in the early to mid 1980s, must be updated to enable reserve recruiters to compete with hospitals, HMOS and communities who offer financial incentives to medical students in return for a commitment to work for them once they become a qualified physician or dentist. As an example, both the Army Reserve and the Army National Guard, which account for 65 percent of Army medical requirements, have not been able to achieve medical recruiting goals and are experiencing serious medical end strength shortfalls.

In summary, Section 517 would enhance the recruiting incentives targeted at students who are committed to a career in medicine in four ways: (1) allow medical and dental school students to receive a stipend, (2) allow subsequent financial assistance for officers who entered medical school and enter residency training in a critically short wartime skill, (3) allow the service obligation to be reduced to one-for-one when a physical or dental acceptance of financial assistance for residency training, and (4) allow those service obligations which require a two-for-one pay back to be incurred in six-month increments.

Section 518. Section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) amended section 641(1) of title 10, United States Code (U.S.C.), to exclude certain reserve component officers serving on active duty for periods of three years or less from the active duty list for promotion purposes. The amendment inadvertently excluded a number of reserve officers on active duty for three years or less who should properly be considered on the active duty list. For example, Senior Reserve Officers’ Training Corps non-scholarship graduates who attend law school in an educational delay status are ordered to active duty for a period of three years and, as a result of the recent amendment, are placed on the reserve active-status list, rather than on the active duty list. These officers, however, should compete for selection for promotion with their contemporaries on the active duty list. e.g., officers who are ordered to active duty for a period of four years as a consequence of their participation in the Senior Reserve Officers’ Training Corps scholarship program.

Section 518 would amend section 641 to provide that reserve officers ordered to active duty for three years or less would be placed on the reserve active-status list only if their placement was required by regulations prescribed by the Secretary concerned and only if ordered to active duty for three years or less with placement on the reserve active-status list specified in their orders. This amendment would provide the Secretaries of the military departments with the authority to prevent an inappropriate application of section 641(1)(D).

Section 518 would also authorize Reserve officers who are called to active duty to meet mission requirements of the active force to be released to resume a reserve call-up authority and return to active duty for up to three years or less and to be considered for promotion by a reserve promotion selection board and managed under the provisions of section 10 U.S.C. 526(b)(2). This would ensure that National Guard AGR personnel are treated in the same manner as
AGR personnel of the other reserve components as commanders of military operations and missions being assigned in whole or in part to the National Guard. Such duties include operational airlift support activities, stand-by air defense operations, anticipated ballistic missile defense operations, land information warfare activities, and the use of National Guard instructors to train both active and reserve component personnel. Thus, this section is important because, while some of these duties have been periodically performed by AGR personnel on a part-time duty, there has been no explicit, binding, legal authority which would outline the limits governing their actions.

Section 521 would amend section 516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261) to extend the time during which the Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to reserve officers commissioned through the Army Officer Candidate School.

Section 12205(a) provides that no person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Naval Reserve, or be federally recognized in a grade above the grade of lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by the end of the second year of service.

Section 516 authorized the Secretary of the Army to waive the applicability of section 12205(a) to any officer who before the enactment of Public Law 105–261 was commissioned through the Army Officer Candidate School. The waiver may continue in effect for no more than two years. A waiver under the section may not be granted after September 30, 2000.

Section 521 would amend section 516 to permit the Secretary of the Army to waive the applicability of section 12205(a) to any officer who was commissioned through the Army Officer Candidate School without regard to the date of commission. It would extend the Secretary's authority under the section to September 30, 2003.

This additional period would enable the Army to determine how to alleviate the problems experienced by some officers commissioned through the Army Officer Candidate School, thereby obtaining a baccalaureate degree during the relatively short period before they are eligible for promotion to captain and during times when they may be engaged in intense training or deployments for long periods.

Section 522 would amend section 12305 of title 10, United States Code, to afford members whose mandatory dates of separation or retirement were delayed due to stop loss action, a period of time to transition to civilian life following termination of stop loss action. Specifically, section 522 would add subsection (c) to afford active duty members whose mandatory separations or retirements incident to sections 1251 or 632–637 are delayed due to stop loss action, a period of time—not to exceed 90 days following termination of suspensions made under section 12305—to transition to civilian life.

As currently written, section 12305 requires immediate separation or retirement of those affected by stop loss, who, without stop loss, would have been required to separate or retire upon their original date of separation or retirement under this title for age (section 1251), length of service (sections 632–637), or promotion (section 632, 637). An abrupt termination of stop loss would lead to undue hardships for those whose planned departure to civilian life was unexpectedly interrupted and now must be resumed post haste. For example, the Air Force involved in stop loss in support of Operation Allied Force in 1998. Following the termination of stop loss on 22 June 1998, eight officers with service-connected permanent disability separations were required to retire upon their original date of separation (1 July 1998); another three officers were required to separate/retire by 1 August 1998. On the other hand, members with a date of separation set by policy were given the option of either extending their dates of separation up to 6 months or withdrawing them. Some leeway must also be provided for members with dates of separation established by law to reschedule the many details incident to final departure from military life.

Section 531. The Marine Corps War College seeks Congressional authority and regional accreditation to issue a master’s degree in Strategic Planning and Management Strategy to begin this process is vested in the Commanding General of the Marine Corps Combat Development Command and was authorized on 1 June 2000. In 1998, the Marine Corps University achieved a seven-year goal by becoming accredited by the Southern Association of Colleges and schools to award a master’s degree in Military Studies. While this accreditation was awarded to the Marine Corps University, it specifically addressed only the degree awarded by the Command and Staff College. The Marine Corps War College now seeks similar authority.

The uniqueness of the Marine Corps War College’s curriculum and program of study is unparalleled by other civilian universities or Federal War Colleges. Most of the Marine graduates of the Marine Corps War College become faculty members of the Command and Staff College. The Command and Staff College already awards a master’s degree, it would be very beneficial for these future faculty members to possess the required academic credentials when arriving at their new positions at the Command and Staff College.

A master’s degree program would enhance the professional reputation and prestige of the Marine Corps War College. This would facilitate the Marine Corps War College’s efforts to sustain and recruit a world class faculty and demonstrate a high level of faculty competence as first rate scholars and speakers. Section 531 is intended only as a technical amendment to the existing legislation. Enactment of this section would not result in an increase in the budgetary requirements of the Marine Corps.

Section 532. Section 206(d) of title 37, United States Code, states that “[t]his section does not authorize compensation for work or study by a member of a reserve component in connection with correspondence courses, training programs, or seminars which are not sponsored by the Federal Government.” Such policies and procedures should include, but need not be limited to, such topics as tracking members’ participation at a distance, measuring successful performance/participation, failure policies, telecommuting policies, equipment funding and availability, equipment liability, personal liability, virtual training, virtual drilling, scheduling, documentation, accountability, and implementing guidelines.

Section 532 would make no change in resource requirements because budgetary decisions associated with the compensation and/or credit for Reserve component members for work performed through non-traditional methods is left up to the discretion of the Service Secretaries.

Section 533 would modify section 3031 of title 10, United States Code, to strike the second sentence in paragraph (a)(1) which reads as follows: “The total number of units of credit or training to be awarded any member of the Postal Reserve or any member of the Army Reserve or any member of the Marine Corps Reserve must not exceed 3,500.”

JROTC is DoD’s largest youth program with over 450,000 students enrolled in more
than 2,900 secondary schools. The statutory mission is to instill in students the value of citizenship, service to the United States, personal responsibility, and a sense of accomplishment. Surveys of JROTC cadets and principals reveal that about 40 percent of the graduating high school seniors with more than two years participation in the JROTC program are interested in some type of military affiliation (active duty enlistment, officer candidate program participation, or service in the Reserve or Guard). Translating this to hard recruiting numbers, in Fiscal Years (FY) 1998-2002 new recruit active duty after entering active duty after completing two years of JROTC. The proportion of JROTC graduates who enter the military following completion of high school is roughly five times greater than the proportion of non-JROTC students. Therefore, the program pays off in citizenship as well as recruiting.

Recognizing the merits of the JROTC program, the Military Services have undertaken an aggressive expansion program and are committed to reach the statutory maximum of 3,500 by FY 2006. As a result of this planned growth, the Military Services have witnessed a marked increase in the number of schools establishing JROTC units. We now face the real potential that DoD and a waiting school might both wish to proceed with an actination, yet face a legislative cap that prevents execution of such a mutually-desirable course of action. Enactment of Section 533 would permit DoD to be responsive to mutually agreeable school needs which might exceed the present 3,500–unit cap set in law.

Section 534 would extend eligibility for the Nurse Officer Candidate Accession Program to students enrolled in a nursing program in exchange for an active duty commitment upon graduation.

Market projections indicate increasing difficulty in recruiting students for the NCP due to a tightening job market for nurses is expected. According to the Bureau of Labor Statistics, employment industry statistics confirm that difficulty in recruiting students for the NCP is expected to continue. A recommendation is made by DoD Force Management Policy to maintain its accreditation. The Secretary of the Army, the Chairman of the Joint Chiefs of Staff, and then approved. A recommendation is made by DoD Force Management Policy to maintain its accreditation.
CONGRESSIONAL RECORD—SENATE

June 29, 2001

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Star Medal has been awarded outside of combat since the Korean conflict, and when it was approved for personnel stationed in Okinawa for meritorious service in connection with military operations against North Korea, limiting eligibility for the Bronze Star Medal to only those members serving in an area where imminent danger pay is authorized or to those receiving pay, would exclude many deserving members of the Armed Forces.

Awards of the Bronze Star Medal should be distributed in a manner that is consistent with the Defense Merit Systems Improvement Act of 1987, which requires that pay rates be increased in a manner that is consistent with the cost of living for military members. The Conference Committee Report to S. 974 to make corresponding changes to title 37, United States Code, Section 601, to authorize DoD to make changes to the pay table that is contained in the Pay Adjustment Act of 1995, was adopted by the Senate, and became Public Law 106–65.

Section 551 would amend the Uniform Code of Military Justice to lower the blood alcohol concentration (BAC) necessary to establish drunken operation of a motor vehicle from 0.1 to 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams per 210 liters of breath. This change would bring military practice in line with the recently enacted nationwide drunk driving standard found in section 351 of the Department of Transportation Agencies Appropriations Act for Fiscal Year 2001, Public Law 106–346, 114 Stat. 3356–341.

On March 3, 1998, President Clinton directed the Secretary of Transportation to develop a plan to promote a .08 BAC legal limit, which would include “setting a .08 BAC standard on Federal property, including . . . on Department of Defense installations, and ensuring strong enforcement and publicity of this standard.”

Consistent with this planning effort, DoD legislation was proposed in its omnibus legislative package in the spring of 1999 to amend the Uniform Code of Military Justice to reduce the blood and breath alcohol levels for the offense of drunken operation of a vehicle, aircraft, or vessel from 0.10 to 0.08 grams. The U.S. Senate enacted section 562 of S. 974, corresponding changes to the United States Code, H.R. 1401, as adopted by the U.S. House of Representatives, contained no similar provision. The Conference Committee Report to S. 1099, National Defense Authorization Act for Fiscal Year 2000, requested the Secretary of Defense to submit a report to the Armed Services Committees on the Department’s efforts to reduce alcohol-related disciplinary infractions, traffic accidents, and other such incidents. The report should include the Secretary’s recommendations for any appropriate changes.” The Conference Report noted that a recent General Accounting Office (GAO) study concluded that statutory reductions, by themselves, did not appear sufficient to reduce the number and severity of alcohol-related accidents.

The GAO study cited in the Conference Report is “GAO, Meritorious Service Awards for Actions Taking Place in Korea (June 1999).” This GAO report concludes that “.08 BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, [but] the evidence does not conclusively establish that .08 BAC laws alone would result in a significant reduction in the number and severity of crashes involving alcohol.” GAO Report at 22–23.

The GAO report further found that “.08 BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, [but] the evidence does not conclusively establish that .08 BAC laws alone would result in a significant reduction in the number and severity of crashes involving alcohol.” GAO Report at 22–23.

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Target large basic pay increases for enlisted members serving in the E-5 to E-7 grades with 6–20 years of service. This would maintain the pay structure and thus the shape of the earnings profile, increasing the slope of the earnings profile for midgrade enlisted members to partially achieve the levels suggested by the 9th QRMC.

Raise basic pay for grades E-8 and E-9, to maintain incentives throughout the enlisted career and prevent pay inversion.

Provide a modest increase in basic pay for junior enlisted members. This increase reflects the importance of preventing further deterioration in the percentage of high-quality recruits.

Provide for structural changes in selected pay cells for E3, E4, and E5 to motivate members to seek early promotion in the junior grades.

Raise basic pay for grades O-3 and O-4 to provide increased retention incentives.

Provide a modest increase for other officers to recognize their contribution to the defense effort.

Section 602 would amend section 602 of title 37, United States Code, Section 602, to authorize DoD to authorize DoD to pay members to partially achieve the levels suggested by the 9th QRMC.

The following pay cells are increased by a different percentage for structural purposes:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percentage Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>E-1</td>
<td>6.0</td>
</tr>
<tr>
<td>E-2</td>
<td>8.5</td>
</tr>
<tr>
<td>E-3</td>
<td>8.5</td>
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<tr>
<td>E-4</td>
<td>8.0</td>
</tr>
<tr>
<td>E-5</td>
<td>7.5</td>
</tr>
<tr>
<td>E-6</td>
<td>7.5</td>
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<tr>
<td>E-7</td>
<td>6.5</td>
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<tr>
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<td>6.5</td>
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<tr>
<td>E-9</td>
<td>5.0</td>
</tr>
</tbody>
</table>

The following pay cells are increased by a different percentage for structural purposes:

<table>
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<tr>
<th>Grade</th>
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</tr>
</thead>
<tbody>
<tr>
<td>W-1</td>
<td>5.0</td>
</tr>
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<td>W-2</td>
<td>8.5</td>
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<tr>
<td>W-3</td>
<td>8.5</td>
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<tr>
<td>W-4</td>
<td>8.0</td>
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<tr>
<td>W-5</td>
<td>7.5</td>
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<tr>
<td>W-6</td>
<td>7.5</td>
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<td>W-7</td>
<td>6.5</td>
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<td>W-8</td>
<td>6.5</td>
</tr>
<tr>
<td>W-9</td>
<td>5.0</td>
</tr>
</tbody>
</table>

Section 602 would amend section 407 of title 37, United States Code, to authorize payment of a partial dislocation allowance of $500 to members who are ordered, for the convenience of the Government (including pursuant to the privatization or renovation of housing), to move into or out of military family housing. Section 601 would allow members to receive a partial dislocation allowance for a government-directed move at the current permanent duty station. Currently, a member directed to move due to privatization or renovation of government housing does so at the member’s personal expense. Currently, a member directed to move due to privatization or renovation of government housing does so at the member’s personal expense. Section 601 would provide a partial dislocation allowance to help members defer moving expenses caused by the government’s housing decisions.

Highly qualified personnel recommended by the 9th QRMC would be considered for the following: 0.08 BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, [but] the evidence does not conclusively establish that .08 BAC laws alone would result in a significant reduction in the number and severity of crashes involving alcohol.” GAO Report at 22–23.
consistent with the full dislocation allow-
ance. In this case the allowance paid to
payments made under new subsection 407(c)
shall not be subject to a fiscal year limita-
section like other DLA payments.

Section 603 would provide the Service Sec-
retary authority for Reserve component mem-
bers when the purpose of that travel is
of that expenditure would be recouped as
level.

The current statutory SUBPAY rate tables
for submarine service in the pay grade of O-1,
O-2 or O-3 who are not on active
duty, but have accumulated a minimum of
1460 points (the equivalent of four years of
active duty) or an enlisted member, is entitled
to be paid at the O-1E, O-2E or O-
3E rate. Currently, a company grade officer
with at least four years of prior active duty
service as a warrant officer or as an enlisted
member is entitled to be paid at a slightly
higher rate. The increase in pay recognizes
the additional experience these officers have
gained while serving as a warrant officer or
an enlisted member and rewards them ac-
cordingly. A Reserve commissioned officer
who has accumulated at least 1,460 points-
the equivalent of four years of active

duty—has gained significant military experience
similar to that of a member who qualifies for
this increase in pay because of prior active
duty service. Moreover, because of the part-
time nature of their service, these officers
have gained that experience over a longer pe-
time of time and are generally more mature.
Allowing these officers to receive this in-
crease in pay recognizes and rewards that ex-
perience on the same basis as officers who

gained their experience purely through ac-
tive duty service.

Section 605 would modify section 427 of
title 37, United States Code, to authorize the
payment of a Family Separation Allowance

to those members who elect to serve an unac-
accompanied—versus accompanied—tour be-
cause the member is denied travel of the
member’s dependents due to certified med-
ical reasons. This change would remove the
requirement that the Secretary concerned to issue a waiver in these cir-
cumstances. Under existing waiver author-
ized by DoD regulation to travel in a
with the addition of annual training duty to
section 18505 is the applicability of section
18505(b) to members performing such duty.

Section 606(b) prohibits receipt of
related to compensation and, therefore, the
provisions relating to a quarters allow-
ance, despite the plain language of sec-
section 4337 reads as follows:

"There shall be a chaplain at the Academy,
who must be a clergyman, appointed by the
President for a term of four years. The chap-
lain is entitled to the same allowances for
public quarters as are allowed to a captain,
and to fuel and light for quarters in kind.
The chaplain may be reappointed."

Although section 4337 nowhere provides a
quarters allowance for the chaplain at the
Academy with fuel and light in kind, the
Comptroller General has determined that
this part of the section has been effectively
repealed.

The source statute for section 4337 was
enacted in 1896 and codified as part of title 10
on 10 August 1956. The Comptroller General
issued an opinion on August 28, 1959, that
held that Congress intended the Classifica-
Act of 1949 to supersede the source stat-
ute for section 4570. The purpose of the Clas-
sification Act was to ensure that Federal
employees in line positions received equal
pay. The Comptroller General concluded that
the allowance for the academy chaplain were closely
related to compensation and, therefore, the
reenactment of the quarters provision as part of
active duty was unnecessary. Ms. M. M. Comp Gen, B-140003. Consequently, the mili-
itary academy chaplain, although charged
rent for quarters, has not received a quarters
allowance, despite the plain language of sec-
section 4337.

This situation has, over time, undermined
the Army's ability to attract, hire and retain
appointees for the position of chaplain at the
Academy, a position mandated by section
4331(b)(b) of title 10. Enactment of Section
606 would ameliorate this problem by pro-
viding clear authority to update and restore
the academy chaplain's housing allowance,
at a reasonable and appropriate pay grade level.

The cost to implement Section 605 is esti-
imated at $14,000 per year, although a portion
of that expenditure would be recouped as
rent paid by the academy chaplain.

SECNAVINST 5730.7A of title 10, United States Code, by removing the
language relating to space-required travel on
military aircraft by Reserve component mem-
bers when the purpose of this travel is
to perform "annual training duty."

A statu-

tory authority for Reserve component mem-
bers to travel in a space required status
when the primary purpose of that training (in-
cluding annual training duty) is not neces-
sary since these members are already au-
complain when a member chooses to serve an unaccompanied
tour because of the individual's de-
pendents to the new station is denied due to
medical reasons. This change would remove the
requirement that the Secretary concerned to issue a waiver in these cir-
cumstances before the Family Separation
Allowance is payable. This program effi-

ciency would ease the administration of the
Family Separation Allowance program. In
addition, adoption of Section 604 would have
no effect on provisions under the Family
Separation Allowance program.

Section 606 would amend section 4337 of
title 10, United States Code, to authorize a
housing allowance for the chaplain for the
Corps of Cadets at the United States Mili-
tary Academy. The chaplain, who is a civil-
ian employee of the Academy, would receive
the same allowance for housing as is allowed
to a lieutenant colonel. The chaplain would
also receive fuel and light for quarters in kind.

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Sec-

The current statutory SUBPAY rate tables
have been duplicated in SECNAVINST
7220.80E, as well as in Tables 23-3 through
23-5 for active duty, Tables 23-6 and 23-7 for
annual training duty and Tables 23-8 for the
Department of Defense Financial Management
Regulations. Thus, removing the SUBPAY rates
from law would provide the service secretary
the flexibility and pay grade-targeted method to address the looming per-
sonnel-related issues that are probable given
the uncertain future Submarine Force of Reserve Officers which could add as many as 13 submarine crews by FY2004 and 19 crews by FY2015. SUBPAY was last increased in 1988, when it was raised to restore the approximate value that it had for submarine crews by FY1991. The SUBPAY program was previously revised in 1981. Since 1988, the value of SUBPAY has eroded by approximately 47 percent (based on the Consumer Price Index—Urban Basic Index from 1988 to 1999 and projected to 2001). If granted this new discretionary authority, Navy Secretaries would first the maximally manned pay grades—mid grade enlisted Sailors and junior to mid grade officers. This would increase the maximum enlisted pay rate from $355 to $425, but would maintain the maximum officer pay rate at $595. Therefore, the budgetary impact of Section 611 would be a net increase of $15.0 million in FY 2003 and a net increase of approximately $14.5 million per year thereafter through FY 2007.

Section 612 would extend the authority to employ accession and retention incentives for officers. This extension would allow the Navy to continue to retain experienced officers who have chosen to remain in the military, thereby lowering the costs associated with recruiting and developing replacements. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in achieving effective personnel levels within critical military skills.

Section 613 would extend the authority to employ accession and retention incentives to support staffing for nurse and dentist billets which have been chronically undersubscribed. Experience shows that retention in those skills would be unacceptable low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing replacements. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in supporting effective staffing in critical military skills.

Section 614 would extend the authority to employ accession and retention incentives, ensuring adequate manning is provided for hard-to-retain and critical skills. Retention rates in these skills are arduous or feature extremely high training costs. Experience shows that retention in these skills would be unacceptable low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in achieving effective personnel levels within these fields.

Section 615 would extend the authorization for critical recruiting and retention incentives. Recognizing even more accessions, and the "vicarious cycle" repeats. The success of the Nuclear Propulsion Program is a direct result of years of rigorous selection and training, and high standards that exceed those of any other nuclear program in the world. Maintaining this unparalleled record of safe and successful operations depends on attracting and retaining the right quantity and highest quality of officers in the Naval Nuclear Propulsion Program. Representing nearly half the Navy’s major combatants and 60 percent of combat tonnage, nuclear-powered warships are repeatedly called upon to protect our vital interests and respond to crises around the world. They represent the cornerstones of our continued maritime supremacy and are an integral part of our national security posture. Adequate manning with top quality individuals is key to the continued safe operation of the program.

The attraction of the civilian job market for nuclear-trained officers remains strong. These officers possess special skills as a result of their training. They also come predominantly from the very top of their classes at some of the nation’s best colleges and universities. As a result, these officers are highly sought for positions in career fields, both within and outside of the nuclear power industry, due to their educational background and management experience. The competition for well-qualified, experienced technical personnel coupled with the lowest unemployment rate in over two decades, indicate that the marketability of nuclear-trained officers will likely increase. Officers leaving the Navy after five years of service can expect to transition to the civilian workforce at about the same level of compensation, but with greatly increased potential earnings and without the arduous schedules and family separation.

The Nuclear Officer Incentive Pay Program is a two-year extension demonstrates support to career-oriented officers. Nuclear officer accessions and retention continue to be the highest that required to sustain the post-drawdown force structure. Fiscal Year (FY) 1999 retention for submarine officers was 30 percent (required 29 percent) and nuclear-trained Surface Warfare Officers (SWOs) it was 20 percent (required 21 percent). FY 2000 retention for submarine officers was 28 percent (required 34 percent) and nuclear-trained Surface Warfare Officers was 21 percent (required 21 percent). Although adequate for now, nominal retention rates must improve by FY 2001 to 20 percent for submarine officer accessions to adequately meet growing manning requirements. Likewise, current accession production must improve. Although nuclear accession goals have increased to the first time meeting submarine officer accessions since FY 1991, FY 2001 nuclear officer accession goals have increased to meet the manning requirements for an increased force size.

Inadequate accessions in previous years and continued poor retention only compound the needs. Officer shortages among officer skills are arduous or feature extremely high training costs as well as are arduous or feature extremely high training costs. Experience shows that retention in those skills would be unacceptable low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing replacements. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in achieving effective personnel levels within critical military skills.
of the Individual Ready Reserve. Expanding the pool of available personnel concerned to target this bonus in those skill areas that are critically short, regardless of the type of mission, would help reduce critical mobilization manpower shortages. This authority would be exercised only in those areas that are critical to the proper accomplishment of other active duty and Selected Reserve bonus authorities, which provide the Service Secretary with the authority to identify those skill areas that are critically short and require added incentives to achieve the necessary manpower level to meet mission requirements. Section 618 would amend section 301 of title 37, United States Code, to authorize payment of hazardous duty incentive pay for members of Visit Board Search and Seizure teams conducting operations in support of maritime interdiction operations. Boarding crews participating in these operations face several hazards inherent to the duty involved. These include the hazards of physically boarding a vessel at sea from a small boat while carrying weapons, inspection of the vessel, and the danger of facing the risk the container contents may have shifted during the transit. In addition, cargo may have mixed, causing a hazard (for example, bulk cargo such as fertilizer, when mixed with salt water or oil, can emit hazardous fumes). Hazardous Duty Incentive Pay would provide a financial recognition to personnel who perform these critical operations for this unusually hazardous duty.

The net effect of adoption would be an increase of $0.2 million for the Navy.

Section 621 would amend section 430 of title 37, United States Code, to extend the entitlement to funded student dependent travel to members stationed outside the continental United States. This would be authorized under the age of 23 who are enrolled in a school in the continental United States but are attending a school outside the United States. It would be authorized from the exchange program. At present, members stationed overseas are entitled to funding for this program, but only if the student is physically located in the United States. This creates an inequity for those members whose dependents attend a school in the United States, but are part of a temporary exchange program located outside the United States. Both sets of members deserve equal treatment.

Section 621 would reimburse travel expenses for student dependents under the age of 23 of a member stationed outside the continental United States when the dependents are enrolled in a school in the continental United States but are attending a school outside the United States as part of a school sponsored-exchange program for less than a year. Section 621 would further limit reimbursement of the expenses of travel between the school in the continental United States where the student dependent is enrolled and the member’s overseas duty station.

Section 622 would amend section 2634 of title 10, United States Code, by adding a new subsection 2634(b)(4) authorizing payment of fees associated with the expansion of the vehicle storage program. This subsection authorizes the Secretary concerned to store a member’s vehicle at government expense under certain circumstances, but does not provide for advance payment of these costs. Vehicle storage costs at a commercial facility can range from $100 to $300 per month, and many of these facilities require deposits equal to two or three months’ storage rate. The Military Traffic Management Command estimates there are approximately 20,000 vehicles that are stored in commercial facilities outside the United States.

Having to pay for these advance payments out of pocket comes at the worst possible time for the military member—during a permanent change of station move. The variety of expenses associated with a move put a significant strain on the financial condition of members, often requiring them to acquire significant debt while they wait for government reimbursement to catch up. At no additional cost to the Government, Section 622 under the section, including per diem, are reducing to some degree the hardship associated with a military life that requires frequent moves.

Section 623 would amend section 411f of title 37, United States Code; strike subsection (d) of section 1482 of title 10, United States Code; and repeal the Funeral Transportation and Living Expense Benefits Act of 1974 (Public Law 93–257).

Currently, the three statutes cited above authorize allowances to families of deceased members and others to attend burial ceremonies of deceased members of the armed forces. The statutes differ in scope and application. For example, section 1482(d) prohibits the payment of per diem, while per diem may be paid under the other two sections. The purpose of Section 622 is to establish uniform authority.

Section 411f of title 37 authorizes round trip travel and transportation allowances for surviving spouses or unmarried children while on active duty or inactive duty in order that such dependents may attend the burial ceremonies of the deceased member. Allowances under section 411f(c) limits the travel and transportation to a location in the United States, Puerto Rico, or United States possessions and “may not exceed $1000.” If a deceased member was ordered to active duty from a place outside the United States, allowances may be provided for travel and transportation allowances for dependents who are extended to account for the time necessary for such travel. Dependents include the surviving spouse, unmarried children under 21 years of age, unmarried children incapable of self-support, and unmarried children enrolled in school and under 23 years of age. Section 411f(c) provides that if no person qualifies as a surviving spouse or unmarried child, the parents of a member may be paid the travel and transportation allowances authorized under the section.

Section 411f(d) of title 10 applies when, as a result of a disaster involving multiple deaths of members of the armed forces, the Secretary of the military department has possession of commingled remains that cannot be individually identified and must be buried in a common grave in a national cemetery. Under section 1482(d), the Secretary may pay the expenses of round trip transportation to the cemetery for a person who would have been authorized under section 1482(c) to direct the disposition of the remains, had identification of the remains in the multiple burial had been made. Also, the Secretary may pay the expenses of transportation for two additional persons closely related to the deceased member who would have been designated under section 1482(c). No per diem may be paid.
TheFuneralTransportationandLivingExpensesActof1974providesbenefitstothefamiliesofdeceasedmembersofthearmedforceswhodiedwhileclassifiedasaprisonerofwarormissinginactionduringtheVietnamconflictandtheirdependents.Currently,section411f(b)restrictstheperiodfortravelallows tobemade. The act, enacted in 1974, provides uniform treatment of all family members who are beneficiaries. The act's authority is some-

Section623wouldmodifysection2634of
Title10,UnitedStatesCode,authorizingthedelegationof
TravelandTransportationAllo
cwesforaccompanyingfamiliesortootherindividualsrelatedtothemilitarymember.

Section633.Section2004ofTitle10,UnitedStates
Code,authorizestheSecretaryofDefense
to detail selected Component members, which was sent to Congress on November 5, 1999, recognized this shortcoming and recommended that the law be amended to provide medical coverage when the member remains overnight between successive training periods, or if they reside within reasonable commuting distance.

Section632wouldaddnighttimehealth
care coverage when authorized by regula-
tions for Reserve Component members who,
althoughtheymayresidewithinareason-
able commuting distance, may be required to
perform inactive duty training.

Section630oftitle19,UnitedStates
Code,authorizestheSecretaryof
Defense to request Congress on the means of
improving medical and dental care for Re-
serve Component members, which was sent to
Congress on November 5, 1999, recognized this
shortcoming and recommended that the
law be amended to provide medical coverage
when the member remains overnight between
successive training periods, or if they reside within reasonable commuting distance.
obtain education or training under the sec-
tion 8102(b) of the National Defense Authoriza-
tion Act for Fiscal Year 1998 (Pub. L. 105-85), Defense
Science Board reports, and General Accounting
Office reports, as well as a desire to im-
prove the development process. The depart-
ment rewrote its acquisition policy doc-
ument. The purpose of the rewrite was to
focus on providing proven technology to
the warfighter, reducing total acquisition cost,
and emphasizing affordability, supportability,
and interoperability. As part of the rewrite,
the department created a new model of the acquisition process that sep-

tarates technology development from system
integration, allows multiple entry points into
the acquisition process, and requires demonstra-
tion of utility, supportability, and in-
teroperability prior to making a commit-
tment to production. As part of the model,
milestone names were changed to Milestone A
(approval to begin analysis of alter-
natives), Milestone B (approval to begin in-
TEGRATED system development and de-
MONstration), and Milestone C (approval to
begin low-rate production). The phases of ac-
quisition were changed to Concept and Tech-
ology Development (in which alternative
concepts are considered and technology de-
velopment is conducted), System Devel-
OPMENT and Demonstration (in which compo-
ents are integrated into a system and the
system is demonstrated), and Production and De-
Ployment. In the system development and
DEMONSTRATION phases of the old model,
Production and Deployment phase is the
Full-Rate Production Decision Review at
which the results of operational test and
evaluation are considered.

The purpose of this proposed legislation is
to make changes in current statutes, which
were based on the old milestone 0/I/II/III
model, so that they correspond to similar
practices under the new A/B/C model.
There is no intent to diminish con-
gressional oversight or to change the con-
tent or amount of reporting requirements.

In the Congress, although the timing of some reports will change.

Under the new milestone A/B/C model, pro-
gram initiation begins under the old
milestone 0/I/II/III model. The reason for
this is that the new model anticipates more
testy technology development before
committing to a new program using those
technologies, while the old model completed
technology development after program initi-
ition. Approval to begin analysis of alter-
natives that previously occurred at Mile-
stone 0 (that now corresponds to Milestone
A) will continue to be done in Concept and
Technology Development. Work that was
previously done in Demonstration and Vali-
dation (or Program Development and Risk
Reduction) is split around Milestone B with
the technology development work being done
before Milestone B and the system proto-
typing and engineering and manufacturing
development being done in System Devel-
OPment (or Program Development and Risk
Reduction) prior to System Development and
Demonstration. Likewise, requirements
identified in law for Milestone II or prior to
System Development and Demonstration,
intended to apply to system engineer-
ing work, are changed to be required at Mile-
stone B or prior to System Development and
Demonstration, both of which encompass
this work effort. All requirements identified
in the law for Milestone III or prior to pro-
duction would be at the full rate production
program. Sections 2366, 2400, 2432 and
2434, are essen-
tially unchanged in reporting requirements.

Section 2435 of Title 10 requires an acquisi-
tion program to be complete prior to enter-
ing work following each of the mile-
stone I, II, and III decisions. In the case of
the acquisition program baseline, a new
baseline description will be generated at pro-
gram initiation, and at each major transi-
tion point (from system development and
demonstration to low-rate production, and
from low-rate production to full-rate pro-
duction). The first and second program baselines
will be completed later than baselines gen-
erated under current statute. The first base-
line will continue to describe the system
concept at program initiation and will also
serve to describe the program through engi-
neering development. The second baseline
will describe the system as engineered prior
to beginning production. There will be no
change in the description for the third base-
line.

Section 8102(b) of Public Law 106-259 and
Section 811 (c) of Public Law 106-398 require
Information Technology certification at
each major decision point (i.e., milestone).
These certificates have been translated from
the milestones II/III of the old model to
milestones A/B/C of the new model.

Section 702 conforms the nuclear aircraft
carrier mobilization requirement to actual
practice by specifying that the exclusion from
maintaining core logistics capabilities,
with respect to nuclear aircraft carriers
that are owned and operated in accordance with
the United States Code, applies only to the nuclear refueling of
an aircraft carrier. The term ‘core logistics capabilities’ is used to define those mainte-
nance and repair standards which should be
thereby met by the Armed Forces so that
it will be able to maintain and repair, on its
own, a variety of military equipment. These
requirements are adhered to as an assurance
that, in times of emergency, the military
can meet mobilization, training and oper-
ation requirements without requiring out-
side contractor interface.

While the current law reads to exclude a
nuclear aircraft carrier, in its entirety (in-
cluding all maintenance processes), from
a requirement to maintain a core logistics ca-
pability, this revision intends to apply this
exclusion solely to the process of refueling.
Nuclear aircraft carrier work, other than nu-
clear refueling, is currently—and will con-
tinue to be—a core logistics capability that
is maintained in accordance with the provi-
sions of 10 U.S.C. §2464. Furthermore, every other category of naval avionics is
currently required to maintain core logistics capabilities. To completely exclude these carriers from the requirement to main-
tain a core logistics capability that the
carrier apart from other naval surface con-
batants, which was not the intention of the
Navy in formulating its original legislation.

Moreover, this amendment would help to
both clarify the original intent of the draf-
ters for 10 U.S.C. §2464 and to discourage sit-
uations which could result in future problems,
such as the privatization of aviation carrier
items which were not meant to be excluded
from the requirement for maintaining core
logistics capabilities.

The Department is committed to fully utilizing its organic depots in order
to maintain a core logistics capability. There are circumstances, however, when a
depot is utilized to its maximum capacity and, because of the limitations imposed by 10
U.S.C. §2466, the Department is prohibited from contracting out the work. The work
would not be available to be performed in-house or at other depots, resulting in delays and excess costs.
This provision would expand the waiver author-
ity, permitting the Secretary to waive the
limitation on maintaining core logistics capabil-
ity. This will result in savings to the customers and in more timely accomplish-
ment of the work. In situations where multiple
depots can perform the same type of mainten-
ance activity, it may not be eco-

tonomical to transfer the work from a fully-
utilized depot to one that is operating at less
than maximum capacity but in a different
geographic region. The Secretary may waive
the limitations if he makes a determination
that it would be uneconomical, due to rea-
sions such as cost or logistical constraints, to
transfer such workload.

Section 705 would clarify the intent of
amendments to section 1724 of title 10,
United States Code, that were made by Sec-

tion 808 of the Floyd D. Spence National De-
fense Authorization Act for Fiscal Year 2001
(Public Law 106-398, 114 Stat. 2654A–268). It
would establish a Joint Con-
tracting Force, and authorizes the Secretary of
Defense to establish one or more develop-
mental laboratories for contracting officers,
for the purpose of training and applying 1072 se-
ries, and recruits and military personnel in
similar occupational specialties.

Section 808 established strict minimum
qualifications requirements for contracting
officers and civilian employees in GS–1102
positions. It also made these requirements

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applicable to military members in similar occupations who were serving, or had served, as contracting officers, employees in the GS–1102 series, or military personnel in similar occupational specialties on or before September 30, 2000. This proposal would also reinstate the minimum requirements that were previously contained in section 1724 for current employees that are excluded from the requirements.

This proposal would also provide the Secretary with the flexibility to establish one or more developmental programs, which would educate and train personnel to meet the minimum qualification requirements of a degree and 24 credit hours in business. Their purpose would be to enable personnel to obtain the necessary knowledge and skills needed to meet the performance requirements of the future acquisition workforce. A significant number of the Department’s current, seasoned acquisition workforce personnel will be eligible to retire within five years. This makes it imperative that the Department have access to the maximum number of superior applicants. We anticipate that the Secretary of Defense would establish one or more programs in which candidates that meet some, but not all, of the minimum requirements could be educated or trained to meet the remaining requirements within a specified period of time. For example, a candidate may have a four-year degree, but not the twenty-four credit hours. This candidate may be close to a degree, including 24 credit hours in business. Each would be provided a specified period of time (in no case more than five years) to meet the statutory requirements. We would anticipate that any person who failed to meet all of the statutory requirements within the time specified would be subject to separation from federal service. This flexibility will give the Department the necessary mechanisms for accessing the greatest number of superior applicants, while retaining its goal of maintaining a high-quality, professional contracting workforce.

This proposal would also address the need to recognize a contracting officer whose mission is to deploy in support of contingency operations and other Department of Defense operations. This force, which consists primarily of enlisted personnel, but which includes both military officers and civilian employees, meets a unique need within the Department and has unique training and qualifications.

This proposal would maintain the requirement for 21 semesters hours of business-related course work or the equivalent and give the Secretary the authority to establish one or more minimum requirements to meet the unique needs of persons performing contracting in support of contingency and other Department of Defense operations.

Section 706. The current language in section 1734(a) of title 10, United States Code, applies to the tenure requirement of over 600 full-time equivalent (FTE) positions to occupy a CAP. This proposal would retain the qualifications to occupy a CAP. The proposed change would require tenure only for personnel in those critical acquisition positions where DoD determines it is necessary to meet the success of DoD’s acquisition programs. Ensuring the tenure of these individuals assigned to program offices and the associated system acquisition functions like systems engineering, logistics, contracting, etc., therein provides the stability originally sought by section 1734(a). This more flexibility to meet organizational mission priorities; enhance career development programs for those holding the remaining critical acquisition positions who perform other functions outside of a program office or functions not related to systems acquisitions (such as procuring spare parts or policy formulation); and would ensure DoD develops the best-qualified individuals for CAPS in program offices and systems acquisition functions.

The current section 1734 undertakes to improve the quality and professionalism of the DoD acquisition workforce in part through a career development program for acquisition professionals to retain that intent, while emphasizing the importance of specific job experience and program continuity, responsibility, and accountability for acquisition personnel working in program offices or supporting system acquisition programs who are performing critical acquisition functions. This proposal also would expand the opportunities for personnel in other CAPS and would result in a reduction of waiver reporting requirements. The proposal balances the needs of the Department for productivity, accountability, and career development, while eliminating an unnecessary administrative burden, increasing productivity, and allowing the workforce to be responsive to changing organizational needs.

Section 710 would amend section 2855 of title 10, United States Code, to repeal a prohibition enacted by the Department of Defense (DOD) from achieving its goal of 40 percent of the dollar value of architectural and engineering (A&E) service contracts awarded to small businesses. This goal was established by section 712(a) the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 Note). The Small Business Competitiveness Demonstration Program was established to see if small business concerns could maintain a reasonable percentage of dollars awarded in four designated industry groups (digs) in an unrestricted competitive environment. A&E services is one of the Digs. The Program establishes a small business participation goal of 40 percent of the dollars awarded in each of the aforementioned Digs. The statute further states that if small business concerns fail to achieve the 40 percent goal during a twelve month period, the agency shall reestablish set-aside procedures to the extent necessary to achieve the 40 percent goal (Section 712(a) of Pub. L. 100-447).

Notwithstanding the authority of the Demonstration Program, section 2855(b) generally prohibits DOD from using small business set-aside procedures in the awarding of A&E contracts. The estimated award price is greater than $85,000. Section 2855(b)(2) provides for revision of the $85,000 threshold if the Secretary of Defense determines that this amount will not reasonably assure that small business concerns receive a reasonable share of A&E contracts. DOD estimates that they would need to increase the threshold to $93,000 to access A&E contracts. This would be so disproportionate to the $85,000 statutory threshold that it is more appropriate to seek a legislative change.

For example, in fiscal year 1999, DOD achieved a small business participation rate of 16.4 percent, significantly below the 40 percent goal established by the Demonstration Program. Historically, approximately 30 percent of DOD’s A&E awards were made to small businesses. Continual adjustments to the threshold to reflect such changes in small business participation would be impractical and counter to both contracting officials and small business interests.

Repealing section 2855(b) will eliminate the $85,000 threshold. As a result, A&E contracts for military construction and military family housing projects could be set aside exclusively for small businesses to achieve the small business competitiveness demonstration A&E goal mandated by section 712(a).

Accordingly, this proposal would eliminate conflicting statutory provisions that currently are making it unnecessarily difficult for DoD to achieve the small business goal for A&E contracts.

Section 711. Section 2534(a) of title 10, United States Code provides that ball and roller bearings must be procured from domestic suppliers even when such a restriction is not in the Government’s interest. This amendment would provide an exception to this restriction if a determination is made that the purchase amount is $25,000 or less; the precise level of the ball or roller bearings is located in the Office of the Assistant Secretary of Defense (Army). The proposed change would allow the Secretary to make a determination in this area.

If enacted, this amendment would significantly reduce the burdens of small business concerns to achieve the small business goal established by the Demonstration Program. This proposal would remove any challenge resulting from conflicting statutory provisions that currently are making it unnecessarily difficult for DoD to achieve the small business goal for A&E contracts.

Section 712 relates to small business concerns in the Air Force Contractor Operated Civil Engineering Supply Store (CACAOSS) program. This proposal would remove the requirement that the Air Force Contractor Operate both CACAOSS and the Air Force Civil Engineering Contractor (ABC) 5 or Roller Bearing Engineering Committee (RBC) 5, or their equivalent; at least two manufacturers in the national technology and industrial base capable of producing the required ball or roller bearings decline to provide a quotation for the required items and the bearing manufacturers are not either a Domestic Source. The proposed change would allow the Secretary to waive the requirement for small business concerns to achieve the small business goal if an equivalent procurement quantity for the required items is obtained from domestic sources.

If enacted, this amendment would significantly reduce the burdens of small business concerns that are performing critical acquisition functions when considering multi-function service contracts until a thorough analysis is conducted. Such analysis would include an economic analysis that would assess the merits of combining these services to increase efficiencies at Air Force installations.
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The committee also directed the Secretary of the Army to change the environmental remediation cost from the application of reprogramming criteria for military construction and family housing construction projects. This proposal would extend the test program from expiring once the Comptroller General has submitted the report. This authority would be allowed only when the rate charged to the Federal tenant is no higher than that charged to the Federal tenant lessee for property under the local government for no individual cost; and

The test program was enacted into law on February 10, 1996. Final changes to the Federal Acquisition Regulation (FAR) to implement the test program were issued on the statutory deadline of January 1, 1997. The due date for the Comptroller General report does not provide time to process a legislative proposal that would prevent the test program from expiring once the Comptroller General has submitted the report.

This provision is in specific support of the amended budget and will result in considerable savings.

Section 714. The proposed change would provide the Services the flexibility to proceed with construction contracts without disruption or delay by excluding the cost associated with unforeseen environmental hazard remediation from the limitation on cost increases. Unforeseen environmental hazard remediation refers to asbestos removal, property by deed or through a lease in furtherance of conveyance to an LRA.

A leaseback is when the Department of Defense transfers non-surplus base closure BRAC authority (LRA) or the LRA’s assignee as part of the leaseback arrangement rather than procure such services competitively in accordance with Federal law and regulations. This authority to pay the LRA or LRA’s assignee for such services under this authority would be allowed only when the Federal tenant leases a substantial portion of the installation; only so long as the facility services or the specific type of common area maintenance are not of the type that a state or local government is obligated by state law to provide to all landowners in its jurisdiction for no individual cost; and only when the rate charged to the Federal tenant is no higher than that charged to non-Federal entities. The proposed legislation also expands the availability of using leaseback authority for property on bases approved for closure in BRAC 1988. A leaseback is when the Department of Defense transfers non-surplus base closure BRAC authority (LRA) or the LRA’s assignee as part of the leaseback arrangement rather than procure such services competitively in accordance with Federal law and regulations. This authority to pay the LRA or LRA’s assignee for such services under this authority would be allowed only when the Federal tenant leases a substantial portion of the installation; only so long as the facility services or the specific type of common area maintenance are not of the type that a state or local government is obligated by state law to provide to all landowners in its jurisdiction for no individual cost; and only when the rate charged to the Federal tenant is no higher than that charged to non-Federal entities. The proposed legislation also expands the availability of using leaseback authority for property on bases approved for closure in BRAC 1988. June 29, 2001

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Section 801 amends section 5038(a) of title 10. Under this amendment the Secretary of Defense may, after notice and hearing, discharge a Director of a regional center. This change is intended to provide the Secretary with the flexibility to realign the regional centers when the Secretary determines such realignment is in the best interests of the Department of Defense.

Section 802 amends chapter 6 of title 10, United States Code, by adding a new section 169 to consolidate the various existing legal authorities governing the DoD Regional Centers into one law. This law will allow the DoD to implement the Regional Centers more efficiently and effectively.

Section 803 would provide the authority to restructure the BRAC process so that the DoD is able to prioritize and allocate funds to the U.S. military installations that require it the most. This will ensure that the DoD is able to meet the national security needs of the United States.

Section 804 would authorize the Secretary of Defense to transfer or lease property, facilities, and rights to non-governmental organizations for the purpose of conducting activities for the benefit of the Department of Defense. This will allow the DoD to work with non-governmental organizations to provide services to the military and their families.

Section 805 would authorize the Secretary of Defense to provide assistance to the Department of Energy for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Energy to ensure that the United States is able to meet the national security needs of the country.

Section 806 would authorize the Secretary of Defense to provide assistance to the Department of Homeland Security for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Homeland Security to ensure that the United States is able to meet the national security needs of the country.

Section 807 would authorize the Secretary of Defense to provide assistance to the Department of Commerce for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Commerce to ensure that the United States is able to meet the national security needs of the country.

Section 808 would authorize the Secretary of Defense to provide assistance to the Department of Agriculture for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Agriculture to ensure that the United States is able to meet the national security needs of the country.

Section 809 would authorize the Secretary of Defense to provide assistance to the Department of Transportation for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Transportation to ensure that the United States is able to meet the national security needs of the country.

Section 810 would authorize the Secretary of Defense to provide assistance to the Department of Health and Human Services for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Health and Human Services to ensure that the United States is able to meet the national security needs of the country.

Section 811 would authorize the Secretary of Defense to provide assistance to the Department of Education for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Education to ensure that the United States is able to meet the national security needs of the country.

Section 812 would authorize the Secretary of Defense to provide assistance to the Department of Labor for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Labor to ensure that the United States is able to meet the national security needs of the country.

Section 813 would authorize the Secretary of Defense to provide assistance to the Department of Justice for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Justice to ensure that the United States is able to meet the national security needs of the country.

Section 814 would authorize the Secretary of Defense to provide assistance to the Department of Energy for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Energy to ensure that the United States is able to meet the national security needs of the country.

Section 815 would authorize the Secretary of Defense to provide assistance to the Department of Homeland Security for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Homeland Security to ensure that the United States is able to meet the national security needs of the country.

Section 816 would authorize the Secretary of Defense to provide assistance to the Department of Commerce for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Commerce to ensure that the United States is able to meet the national security needs of the country.

Section 817 would authorize the Secretary of Defense to provide assistance to the Department of Agriculture for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Agriculture to ensure that the United States is able to meet the national security needs of the country.

Section 818 would authorize the Secretary of Defense to provide assistance to the Department of Transportation for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Transportation to ensure that the United States is able to meet the national security needs of the country.

Section 819 would authorize the Secretary of Defense to provide assistance to the Department of Health and Human Services for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Health and Human Services to ensure that the United States is able to meet the national security needs of the country.

Section 820 would authorize the Secretary of Defense to provide assistance to the Department of Education for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Education to ensure that the United States is able to meet the national security needs of the country.

Section 821 would authorize the Secretary of Defense to provide assistance to the Department of Labor for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Labor to ensure that the United States is able to meet the national security needs of the country.

Section 822 would authorize the Secretary of Defense to provide assistance to the Department of Justice for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Justice to ensure that the United States is able to meet the national security needs of the country.

Section 823 would authorize the Secretary of Defense to provide assistance to the Department of Energy for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Energy to ensure that the United States is able to meet the national security needs of the country.

Section 824 would authorize the Secretary of Defense to provide assistance to the Department of Homeland Security for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Homeland Security to ensure that the United States is able to meet the national security needs of the country.

Section 825 would authorize the Secretary of Defense to provide assistance to the Department of Commerce for the purpose of conducting activities to support the national security needs of the United States. This will allow the DoD to work with the Department of Commerce to ensure that the United States is able to meet the national security needs of the country.
apply them to all of the Centers will further enhance the ability of the Regional Centers to operate as a unitary entity. The above changes to the DCIPS and the Regional Centers are being reviewed for use and dissemination within the general DCIPS community, however, does not address a pressing need to allocate additional positions to NIMA as part of a Congressionally mandated administrative transfer intelligence positions from CIA to NIMA.

Since DISES personnel were created in 1996, NIMA has been staffed at senior levels by DISES personnel, Defense Intelligence Senior Level (DISL) personnel, and SIS personnel. It should be noted in this regard, however, that when the initial DCIPS cap was set at 492, the 27 positions that CIA filled with SIS personnel on temporary detail were not included in the ceiling. This provides the ability to present a clearer and more complete picture of the Reserve Component equipment needs.

Section 118 of title 10 established a permanent requirement for the Secretary to conduct a Quadrennial Defense Review (QDR) in conjunction with the Chairman. The Department of Defense has designed the QDR to be a fundamental and comprehensive examination of America’s defense needs from 1997–2015; to include assessments of potential threats faced by the United States, unnecessary duplication of effort among the armed forces, and changes in technology that can maximize force efficiency and readiness; and to include recommendations for change that would maximize force efficiency and readiness.

Simultaneously preparing the QDR and the roles and missions study requires the concentrated efforts of many Joint Staff action officers for a period of eighteen months. Eliminating this duplication of effort, however, will significantly enhance the Joint Staff’s ability to meet an expanding list of congressionally or Department of Defense mandated reporting requirements on a wide variety of sensitive defense topics. These topics include joint experimentation, training, and integration of the armed forces, examination of new force structures, operational concepts, and joint doctrine; global information operations; and homeland defense, particularly with regard to managing the consequences of the use of weapons of mass destruction within the United States, its territories and possessions.

Section 811 would change the due date for the Commercial Activities Report to Congress, required by section 1246(g), title 10, United States Code, from February 1st of each year to January 15th of each fiscal year. The Commercial Activities Report is developed using the same in-house inventory database as the Department’s Federal Activities Report (FAR) submission. Under the FAIR Act, the Department is required to submit an inventory of commercial functions each Fiscal Year. That inventory is subject to congressional oversight and public disclosure, including initiation by the Committee on Homeland Security and Governmental Affairs. Public disclosure includes the opportunity for interested parties to comment on the scope and nature of the inventory. In order to ensure that the Commercial Activities Report is as accurate
Section 821 would amend section 2572 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2572 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 822 would amend section 2641 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2641 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 823 would amend section 2671 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2671 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 824 would amend section 2672 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2672 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 825 would amend section 2673 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2673 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 826 would amend section 2674 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2674 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 827 would amend section 2675 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2675 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 828 would amend section 2676 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2676 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 829 would amend section 2677 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2677 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 830 would amend section 2678 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2678 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 831 would amend section 2679 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2679 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 832 would amend section 2680 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2680 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 833 would amend section 2681 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2681 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 834 would amend section 2682 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2682 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 835 would amend section 2683 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2683 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 836 would amend section 2684 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2684 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 837 would amend section 2685 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2685 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 838 would amend section 2686 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2686 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 839 would amend section 2687 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2687 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 840 would amend section 2688 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2688 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.

Section 841 would amend section 2689 of title 10, United States Code, to authorize the Secretary of Transportation to exchange condemned or obsolete combat material or obsolete or surplus material for foreign air carriers. As paragraph (1) would amend subsection (a) of section 2689 of title 10, this amendment would expand the authority granted in subsection (a) to allow the safety standards to be applied equally to foreign and domestic carriers. If enacted, this proposal will not increase the budgetary requirements of the Department of Transportation.
In the past, MRTFB Installations did not charge contractors a fully burdened rate to use their facilities when conducting test in association with a defense contract. A Service audit finding opined that the MRTFB Installations had missapplied the law and charged contractors a too low rate. The Department had a policy that it would be treated by commercial users, thereby requiring them to be charged the fully burdened rate. However, weapons programs have prepared their budgets under the assumption that the fully burdened rate would not be charged to the defense contractors acting on their program's behalf. The amendment proposed in subsection (c) of this proposal would make MRTFB test and evaluation services available to defense contractors under the same access and user charge policies as applied to the sponsoring Department of Defense component. This would assure that the MRTFB is able to perform its fundamental role of support to defense acquisition programs under the same policies as existed prior to section 2851, while continuing to leave the choice of "where to test" to the defense contractors. The amendment proposed in subsection (c) of this proposal would extend this category to contractors of other U.S. government agencies. If section 901(c)(2) were included, there may be an increase to specific research and development programs.

Section 902 would amend 10 U.S.C. section 2350a to improve the Department's ability to get into cooperative research and development projects with other countries. This amendment would incorporate references to the term "Major-Nato-ally" to allow countries like Australia, South Korea or Japan to be recognized, not just as other friendly foreign countries, but as major allies.

Section 903 would amend chapter 53 of title 10, United States Code, to provide the Secretary of Defense the authority to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nations that significantly enhance or support the National Security Strategy of the United States. Currently, the Department is required to recognize superior achievements and performance by foreign nationals is limited to awarding military decorations to military attaches,attachés, military attaches, attachés, or individuals of such as the Armed Forces Association.

Assuming that the expenditures for such items during the 328 deployments conducted by the Special Forces Command in fiscal year 2000 exceeded the personal services authorized (the current "minimal value" threshold set by section 7343(a)(5) of title 5, United States Code), the men and women of that command have a long tradition of paying such expenses out of their own pockets, or from funds received from private organizations such as the Special Forces Association.

Enactment of this proposal would enhance the execution of Department engagement programs, by providing another means of establishing goodwill today that will contribute to improved security relationships tomorrow. But most importantly, it would relieve servicemembers from the need to pay such expenses out of pocket, by authorizing commanders to pay for these expenses from the budgets allocated to them to conduct these critical missions.

Section 904 would give the Department of Defense (DoD) the personal service contract authority currently exercised by other agencies with overseas activities, it would allow DoD to compensate the personal services necessary to carry out its national security mission, particularly in the newly independent states.

In those countries where the DoD does not have a Status of Forces Agreement or does not have a major military presence including a program for civilian personnel administration, but that service has traditionally been performed on a reimbursable basis by the Department of State (DOS). DOS has used its personal service contract authority to support DoD units such as Defense Attaché Offices, Security Assistance Offices, and Military Liaison Teams, that are frequently co-located with the U.S. Embassies, under Chief of Mission authority. DoD does not have personal service contract authority and DOS counsel recently determined DOS is prohibited from using its personal service contract authority to provide workers for an agency that does not have such authority.

The amendment would begin terms for personal service contracts that support DoD requirements. DoD units have been faced with the need to either use a non-personal service contract or obtain Full-Time Equivalent (FTE) authority. Use of non-personal service contracts may be inappropriate for the type of work performed, cause security and access to facilities to be lost, and may be in violation of local labor law. FTE has not been readily available to support time-limited programs such as the Partnership for Peace and Military Liaison Teams. FTE has been particularly difficult to obtain for overseas units that are under headquarters constraints such as the OSD (FTE) that currently supports arms control delegations in Geneva.

Section 911 would amend section 1153 of the Federal Employees Retirement System Act, as amended (5 U.S.C. section 8341) to authorize the FTE's defined contribution retirement system to be used as an alternative to traditional defined benefit retirement plans. Section 1153 authorized the Department to use Voluntary Separation Incentive Pay (VSIP) and Voluntary Early Retirement Authority (VERA) for workforce restructuring. Section 1153 authorized the Department to use Voluntary Separation Incentive Pay (VSIP) and Voluntary Early Retirement Authority (VERA) for workforce restructuring. This provision would allow the DoD to make a negotiated settlement with the U.S. Federal Labor Relations Authority in order to grant early retirement or pay the incentive.

Section 912 would amend section 104a title 10 to clarify the status of civilian attorneys to serve as notaries. Section 912 authorizes "civilian attorneys serving as legal assistance officers" to perform notarial services. Civilian attorneys have no designation under Office of Personnel Management personal services descriptions as legal assistance "officers." Within Department of Defense documents, civilian attorneys providing legal assistance services are referred to as legal assistance attorneys. For this and other reasons related to the efficient management of legal assistance offices, subsection (b) would amend section 104a(b)(2) to refer to legal assistance attorneys.

Section 912(b) would amend section 104a title 10 to clarify the status of civilian attorneys to serve as notaries. Section 912 authorizes "civilian attorneys serving as legal assistant officers" to perform notarial services. Civilian attorneys have no designation under Office of Personnel Management position descriptions as legal assistance "officers." Within Department of Defense documents, civilian attorneys providing legal assistance services are referred to as legal assistance attorneys. For this and other reasons related to the efficient management of legal assistance offices, subsection (b) would amend section 104a(b)(2) to refer to legal assistance attorneys.
extend notary authority to civilian non-lawyers and legal assistance office in-take personnel.

Section 913 would amend section 2461 of title 10, United States Code, are met using the commercial activities study procedures of A-76 that the Revised Supplemental Handbook of title 10, United States Code, are met using the National Imagery and Mapping Agency personnel transferred into the National Imagery and Mapping Agency pursuant to the National Defense Authorization Act for Fiscal Year 1997, Public Law 104-201, third party appeal rights under chapter 75 for such time as they remain Department of Defense employees employed without a break in service in the National Imagery and Mapping Agency. The section also permits the employees so affected to waive the provisions of this section. However, the employee forfeits his or her rights under this section. Personnel who have those rights and who are assigned or detailed by NIMA to positions of the CIA or other agencies retain their rights vis-a-vis NIMA while assigned or detailed to those positions.

Section 921 would allow the Secretary of Defense to provide the Director, NIMA, the authority to set up a critical skills undergraduate training program parallel to those authorized to NSA, DIA, CIA, and the military departments. These programs are intended to further the goal of enhanced re-employment of minorities for careers in the Intelligence and Defense Communities. Under these programs agencies recruit high school graduates who otherwise would not qualify for employment and then send them to obtain undergraduate degrees in areas such as computer science. These employees are required to commit to remaining in the Government for specified payback periods. No costs are anticipated in fiscal year 2002. Fiscal year 2003 costs are currently estimated at less than $1,000,000. This proposal imposes no costs on other organizations.

Section 922 would amend section 263 of title 10, United States Code, and would establish a three-year pilot program permitting payment of retraining expenses for DoD employees to convert a function to contract performance without incurring the potential length and cost of an A-76 study. This revision would not alter the requirements where an A-76 study is undertaken. It would not alter the rights of employees who are subject to an A-76 study.

Section 914 clarifies that former Defense Intelligence Agency personnel transferred into the National Imagery and Mapping Agency, while assigned to or detailed by NIMA to positions of the CIA or other agencies retain their rights vis-a-vis NIMA while assigned or detailed to those positions.

Section 991 provides for an Office of the Director, NIMA, with an enhanced management tool to receive adverse impacts on employees. Availability of this option would also reduce costs associated with VISIP payments and the placement of employees through the DoD Priority Placement Program.

Section 923 responds to section 1051 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261), which identified the need for improving procedures for demilitarizing excess and surplus defense property. The proposed statutory revision would permit Department of Defense activities to convert a function to contract performance without incurring the potential length and cost of an A-76 study.

Section 924 amends Title 10, United States Code, to allow a contractor to conduct random inspections of automobiles shipped overseas by military members or employees. This proposal will not increase the budgetary requirements of the Department of Defense or other federal agencies, as required by the Act of title 10 of the Code of Federal Regulations. Motor vehicles shipped under the authority of section 2634 of title 10 and section 5727 of title 5 are owned or leased by members of the armed forces and federal employees and are being transported out of the country pursuant to the member’s or employee’s change of permanent station orders. The vast majority of motor vehicles shipped under these two provisions of law belong to Department of Defense personnel, and are for personal use on member or employee. In most cases, these motor vehicles are returned to the United States along with the member or employee upon completion of duty overseas. These motor vehicles are not being exported for the purpose of entering the commerce of a foreign country and normally may not be sold to foreign nations in the country to which the military member or employee is assigned. Their shipment is arranged and normally paid for by the United States government. In addition, the Department of Defense is authorized to pay contractors to conduct random inspections of military vehicles shipped to the country of destination to ensure that vehicles being shipped are in good repair and are not subject to theft or loss. This proposal, if enacted, would permit Department of Defense civilian employees, regulations promulgated by the Department of Defense pursuant to authority granted in Section 924. The proposal would permit Department of Defense property by individuals and business entities has caused grave concern both in the media and in Congress and has been a topic of study for the Defense Science Board.

Questions on the amount of compensation due a possessor of these materials have arisen in the past, and legislation has been permitted. This proposal, if enacted, would provide needed clarification on several issues. First, it would codify in law the type of compensation subject to recovery by specifically adopting the definition of SIME as contained in the Code of Federal Regulations. Second, it would permit a possessor to be compensated for administrative costs, such as transportation and storage costs, assuming the possessor obtained such costs by proper channels. Note that exceptions are provided for certain categories, including museums and the Civilian Marksmanship program.

Section 992 would amend section 2634 of title 10, and section 5727 of title 5, United States Code, by exempting motor vehicles shipped by members of the armed forces and federal employees from the provisions of the Anti Car Theft Act of 1992, as amended. The Anti Car Theft Act of 1992, (the “Act”), codified at Sections 1646b and 1646c of title 19, United States Code, requires customs officers to conduct random inspections of automobiles and shipping containers that may contain automobiles that are being exported, for the purpose of determining whether such automobiles are stolen. In addition, the Act requires that all persons or entities exporting used automobiles scheduled for export must have employed the former DoD employee for at least 12 months. In short, this proposal allows payments for training for a specific job; it is not designed towards generic, non-job-related training.

Expanded use of incentives such as contained in this proposal would provide DoD with an enhanced management tool to reduce adverse impacts on employees. Availability of this option would also reduce costs associated with VISIP payments and the placement of employees through the DoD Priority Placement Program.
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and may result in savings from not having to store environmental equipment in core operational areas.

Section 923 concerns Department of Defense gift initiatives. The amendments would clarify items which may be loaned or given under section 7545 of title 10, United States Code. Amendments to section 7545(a) of title 10 would clarify that the Secretary may donate either obsolete ordnance material or obsolete command and control material to qualified organizations under section 10 U.S.C. 2672, a statute which is similar, but not identical, to section 7545. Addition of the term “obsolete shipboard material” covers items such as anchors and ship propellers, which are frequently sought from the Navy for use as display items.

The deletion of “World War I or World War II” aircraft would allow coverage of other wars, such as the Korean, Vietnam, and Persian Gulf wars as well as any future war. The deletion of “soldiers, civilians and military personnel” would clarify that associations related to any branch of military service are qualified organizations.

A new subsection (d) is added because currently no federal statute expressly addresses the loan or gift of a major portion of the hull or superstructure of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sale of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sale of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sale of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sale of a Navy submarine or surface combatant.

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The base estimates it costs about $800,000 per year for electricity just to produce reserve equipment by repealing section 928 would repeal the requirement for a two-year budget cycle for the department of defense by repealing section 1405 of the department of defense authorization act, 1986 (31 U.S.C. 1105 note).

By Mr. SMITH of Oregon:
S. 1156. A bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH of Oregon. Mr. President, today I raise to introduce the Electric Bike Safety Act of 2001. This bill will encourage and provide more opportunities for Americans to enjoy the leisure and healthful benefits of riding bicycles. This legislation would amend the Consumer Product Safety Act CPSA, to provide that low-speed electric bicycles are consumer products subject to such Act. As the CPSA is now written, low-speed electric bicycles are not considered consumer products, but rather a motorized vehicle subject to all regulations set by the National Transportation Safety Administration, NTSA, which regulates automobiles and motorcycles.

As a result of low-speed electric bicycles being treated as motorcycles, they are required to meet burdensome and unnecessary standards, making low-speed electric bicycles much more costly than they need to be. Subjecting electric bicycles to motor vehicle requirements would mean the addition of a large array of costly and unnecessary equipment, brake lights, turn signals, automatic doors, grade headlights, and rearview mirrors.

Making electric bicycles accessible for more Americans will benefit the lives of thousands of Americans. Electric bicycles provide disabled riders the freedom of mobility without the cost or stigma of an electric wheelchair. Electric bicycles provide older riders with increased lifestyle flexibility due to increased mobility that electric bicycles allow them. Electric bicycles provide law enforcement officers a practical way to patrol neighborhoods and towns in a manner consistent with the highly successful emphasis on “Community Policing”. Electric bicycles provide short and medium distance travel in a environmentally friendly and healthy way to get to work. In short, this bill is pro-Americans with disabilities, pro-elderly, pro-safety, and pro-environment. Electric bicycles will prove beneficial to many more Americans if we had the financial support to make electric bicycles affordable.

In my home State of Oregon, there are thousands of people who ride bicycles each day, whether as a means of transportation, exercise, or recreation. The City of Corvallis offers a network of bike lanes and paths and as a result has a very high number of people who commute to work on their bicycles. Area companies such as Hewlett-Packard and CHEM-Hill even offer changing areas and showers to encourage their employees to ride bicycles to work. The Corvallis Police Department is also able to utilize electric bikes as a community friendly way to patrol their city.

I believe that placing electric bicycles under the regulation of the Consumer Product Safety Commission will only ensure the safety of electric bicycles, but will promote their use by making electric bicycles an affordable alternative form of transportation to millions of Americans.

By Mr. SPEKTOR (for himself, Ms. LANDRIEU, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LEAHY, Mr. COCHRAN, Mr. BREAUX, Mr. ALLEN, Mr. BIDEN, Mr. BOND, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FISHT, Mr. GREGG, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mr. REED, Mr. ROCKEFELLER, Mr. SARBAESE, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, and Mr. WARNER):
S. 1157. A bill to reauthorize the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Interstate Dairy Compact, a Pacific Northwest Dairy Compact, and an Interstate Dairy Compact; to the Committee on the Judiciary.

Mr. SPEKTOR. Mr. President, I join today with thirty-eight of my colleagues to introduce legislation authorizing interstate dairy compacts. Members of the U.S. House of Representatives have introduced similar legislation with 162 cosponsors, including 17 members of the Pennsylvania delegation.

This legislation will create a much needed safety net for dairy farmers in the Northeast and other regions and will bring greater stability to the prices paid to farmers. The bill authorizes an Interstate Dairy Commission to take such steps as necessary to assure consumers of an adequate local supply of fresh fluid milk and to assure the continued viability of dairy farming within the compact region. Specifically, states that choose to join a compact would enter into a voluntary agreement to create a minimum farm-price for milk within the compact region to form a safety net for dairy farmers. This provision further will provide an opportunity to meet long-term water needs with no US Army capital investment, reduce short run modernization/rehabilitation costs for the aged and reconfigured off-base water supply system (Tumon Maui well and Wells 1, 2, 3, 5, 6, 7, 8, and 9), chlorination and fluoridation equipment, air strippers, several ground level storage tanks, several booster pump stations, approximately 461,000 linear feet of piping ranging in size from less than 2-inches to 30-inches in diameter, 335 building services, 271 main valves, 11 post indicator valves, 439 fire hydrants, and 13 meters.

Andersen AFB’s nine wells and (associated system components) are located several miles off the Main Base. There is one well at “Tumon” (900 gallons per minute (gpm)) and eight wells at the “Andy South” area (149–440 gpm each, 2900 gpm total). The water is pumped from the wells to the Main Base several miles away across non-federal properties. The Air Force’s Andy South property is in an area declared excess property pursuant to the Federal Property Act, but neither the water rights nor the property are part of that action.

A new water system needs to be built due to the advancing age (35–50+ years) and corrosive environment that has deteriorated the system components. The logistics involved in performing the maintenance and repair work off-base make it difficult for the mechanics to control the deterioration. As a result, more pipes, valves and pumps are failing. In 1993, the base, which is about 1 mile off the Main Base, already experienced a break-in and major failure to the transmission line or the 50+ year old Santa Rosa Tank could leave the Main Base with only 250,000 gallons of available water (less than 15% of the average daily demand). This amount is insufficient for fire protection and normal operations.

The base estimates it costs about $800,000 per year for electricity just to produce reserve equipment by repealing section 927 would repeal the requirement of reserve equipment by repealing section 114(e) of title 16, United States Code. Section 926 would repeal the requirement for a separate budget request for procurement of reserve equipment by repealing section 1405 of the department of defense authorization act, 1986 (31 U.S.C. 1105 note).

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farmers when farm milk prices fall below the established compact price. This price would take into account the regional differences in the costs of production for milk, thereby providing dairy farmers with a fair and equitable price for their product.

Specifically, the bill would authorize Pennsylvania, New Jersey, Delaware, New York, Maryland, and Ohio to join the existing Northeast Interstate Dairy Compact, which has been in operation since July 1997. Most of these States have already agreed to join the Compact with strong support from their governors and legislatures. In the Commonwealth of Pennsylvania, Governor Ridge has been a very strong supporter and advocate of the Compact. The Pennsylvania Senate and House of Representatives have sent a clear signal to Congress by voting with overwhelming majorities of 44 to 6 and 181 to 20, respectively, to authorize the Commonwealth’s participation in the Northeast Dairy Compact.

In addition to expanding the current Northeast Interstate Dairy Compact, the bill would authorize southern States to form a similar compact to provide price stability in their region. I am pleased to join so many of my colleagues from the South in introducing this legislation. Finally, the legislation would allow formation of other compacts in the Pacific Northwest and Intermountain region within three years. We have included language in this bill to recognize the efforts in these States to support dairy compacts and to avoid their exclusion if these efforts lead to passage of compact legislation by their State governments.

In total, twenty-five States have already approved dairy compact legislation. The many additional States that are attempting to meet the needs of dairy farmers, producers, consumers and other citizens concerned with the future of their milk supply. These States recognize the many positive aspects of dairy compacts. The benefits include providing dairy farmers with a fairer and more stable price structure; providing consumers with price stability and a steady, reliable source of local milk for their consumption; enhancement of conservation efforts; and maintenance of rural economies that have been suffering for quite some time from the loss of income-generating farmers. Over the past several years, I have worked closely with my colleagues in the Senate in order to provide a more equitable price for our nation’s milk producers. I supported amendments to the Farm Bills of 1981 and 1985, the Emergency Supplemental Appropriations Act of 1995 and the most recent Farm Bill in 1996 in an effort to ensure that dairy farmers receive a fair price. As a member of the U.S. Senate Agriculture Appropriations Subcommittee, I have worked to ensure that dairy programs have received the maximum possible funding to fund dairy research conducted at Penn State University. I have also been a leading supporter of the Dairy Export Incentive Program which facilitates the development of an international market for United States dairy products.

In recent years, however, dairy farmers have faced low prices for dairy products. Prices have fluctuated greatly over the past several years, thereby making any long-term planning impossible for farmers. These economic conditions have placed our Nation’s dairy farmers in an all but impossible position and this is borne out in dairy farmers’ declining ranks.

Our Nation’s farmers are some of the hardest working and most dedicated individuals in America. During my tenure as a United States Senator, I have visited numerous small dairy farms in Pennsylvania. I have seen these hard working men and women who have dedicated their lives to their farms. The downward trend in dairy prices is an issue that directly affects all of us. We have a duty to ensure that our Nation’s dairy farmers receive a fair price for their milk. If we do nothing, many small dairy farmers will be forced to sell their farms and leave the agriculture industry. This will not only impact the lives of these farmers, but will also have a significant negative impact on the rural economies that depend on the dairy industry for support. Further, the large-scale displacement of small dairy farmers from agriculture could place our nation’s steady supply of fresh fluid milk in jeopardy, thereby affecting every American.

We must recognize the importance of this problem and take prompt action. Twenty-five States have asked us to pass this legislation and provide a necessary tool for their dairy farmers. I urge my colleagues to co-sponsor and support this legislation as we continue to work in Congress to bring greater stability to our Nation’s dairy industry.

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

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

SECTION 1. SHORT TITLE.

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

"ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

"1. Statement of purpose, findings and declaration of policy"

"Purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogatives of the States under the United States Constitution to legislate an interstate compact for the southern region. The mission of the commission is to take such steps as are necessary to the

"SEC. 2. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7556) is amended—

(a) in the matter preceding paragraph (1), by striking "States" and all that follows through "Vermont" and inserting "States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont";

(b) by striking paragraphs (1), (3), and (7) and inserting paragraph (2), in the matter preceding paragraph "Class III A" and inserting "Class IV";

(c) by striking paragraph (4) and inserting the following:

SEC. 3. SOUTHERN DAIRY COMPACT.

In general.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, subject to the following conditions:

(1) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I fluid milk, as defined by a Federal milk marketing order issued under section 8 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1957 (referred to in this section as a "Federal milk marketing order") unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(2) ADDITIONAL STATES.—Florida, Nebraska, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(3) COMPENSATION OF COMMODITY CREDIT CORPORATION.—In each fiscal year in which a compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 533 of title 5, United States Code.

(4) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(b) COMPACT.—The Southern Dairy Compact is unamendable as follows: supplementary.
assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

“The participating states find and declare that milk is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the region’s economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

“The participating states find and declare that dairy farms are essential and they are an integral part of the region’s rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

“In establishing their constitutional regulatory authority over the region’s fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. If the compact itself set forth this basic principle.

“Designed as a flexible mechanism able to adjust to changes in a regulated market, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market otherwise than establishment of this compact result in discontinuance of the order system.

“By enacting this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, which is fundamental to the benefits and recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels established.

“In today’s regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized state action through their elected or appointed officials may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

“ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

“§ 2. Definitions

“For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise provided in the context:

“(1) ‘Class I milk’ means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section 95-2 of the compact.

“(2) ‘Commission’ means the Southern Dairy Compact Commission established by this compact.

“(3) ‘Commission marketing order’ means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

“(4) ‘Compact’ means this interstate compact.

“(5) ‘Compact over-order price’ means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the region. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

“(6) ‘Milk’ means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

“(7) ‘Partially regulated plant’ means a milk plant not located in a regulated area but having operations within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

“(8) ‘Participating state’ means a state which has become a party to this compact by the enactment of concurring legislation.

“(9) ‘Pool plant’ means any milk plant located in a regulated area.

“(10) ‘Region’ means the territorial limits of the states which are parties to this compact.

“(11) ‘Regulated area’ means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

“(12) ‘State dairy regulation’ means any part or parts thereof as defined in the regulations of the commission. Such order or marketing order, and the adoption, amendment or rescission of the commission’s by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the commission’s affairs. Establishment or termination of an over-order price or commission marketing order shall require also the affirmative vote of that state’s delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission’s business.

“§ 3. Rules of construction

“(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

“(b) The compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adoption, or modification of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory concepts and define additional terms as it may find appropriate to achieve its purposes.

“ARTICLE III. COMMISSION ESTABLISHED

“§ 4. Commission established

“There is hereby created a commission to administer the compact, composed of delegations from each state as a party to this compact. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one or more of whom shall be representatives of the state’s delegation. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall incur no liability by virtue of the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state. The expenses shall be paid by the commission.

“§ 5. Voting requirements

“All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission’s by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the commission’s affairs. Establishment or termination of an over-order price or commission marketing order shall require also the affirmative vote of that state’s delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission’s business.

“ARTICLE IV. ADMINISTRATION AND MANAGEMENT

“(a) The commission shall elect annually from among the members of the participating states a chairman, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall act at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one member elected by each delegation.

“(b) The commission shall adopt by-laws for meetings and hearings, which shall be the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in the convenient form of the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings, and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

“(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and any one or all of the participating states by submitting copies to the governor, both houses of the legislature, and
and to pledge the revenue of the commission for the rights of the holders thereof and to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact; 

"(5) To appoint such officers, agents, and employees as it deems necessary, prescribe their powers, duties and qualifications; and to create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the salaries, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services from non-officials on a fee or salary basis.

The commission shall have the power:

"ARTICLE IV. POWERS OF THE COMMISSION

"§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

"The commission is hereby empowered:

1. To investigate or provide for investigations or research projects designed to review the regulations established in the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

2. To study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

3. To encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

4. To prepare and release periodic reports on activities and results of the commission's efforts to improve industry relations, or a better understanding of problems.

5. To review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve or promote more efficient assembly and distribution of milk.

6. To investigate costs and charges for producing, handling, processing, distributing, selling and for all other services performed with respect to milk.

7. To examine current economic forces affecting the trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions affecting the dairy industry.

8. To establish rules and regulations as it deems necessary to implement the provisions of this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to establish in any other respect the purposes of this compact.

9. Equitable farm prices

"(a) The grants provided in this section and section ten shall apply only to the establishment of a compact over-order price, so long as such marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall become applicable to all areas in which a single order or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

"(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and sixty cents per gallon at Atlanta, Ga., however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum such order prices. Beginning in nineteen hundred ninety, and using that year as a base, the foregoing one dollar and sixty cents per gallon maximum shall be adjusted annually by the revised price in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the application of the federal order or state dairy regulations and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to the rules and regulations of the commission as prescribed in regulations.

"(c) A commission marketing order shall apply to all classes and uses of milk.

"(d) The commission is hereby empowered to establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission is also empowered to establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area and to establish either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established under this section, the commission shall have the obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

"(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of producing, handling, processing, distributing, selling and for all other services performed with respect to milk.

"(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

"(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or the provision of services for reducing the regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing such services.

10. Optional provisions for pricing order

"Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to any of the following:

1. Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

2. With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification paid for the quantities of milk purchased from producers or associations of producers.

3. With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

4. Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing.

5. Provisions may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

6. Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handlers of uniform prices for milk delivered by them.

(A) With respect to regulations establishing a compact over-order price, the commission may establish a single over-order price for milk within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

(B) With respect to any commission marketing order, as defined in section two, subdivision three, which replaces one or more terminated federal orders or state dairy regulations, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

6. Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require an adjustment of the milk price required by the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulations.

6. Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require an adjustment of the milk price required by the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulations.

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“(7) Provisions specially governing the pricing and pooling of milk handled by partially cooperatives.

“(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or for the administration of dairy regulation within the regulated area.

“(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).


“(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. RULEMAKING PROCEDURE

§11. Rulemaking procedure

Before promulgation of any regulations establishing an over-order price or commission marketing order, including any provision with respect to milk supply under subsection (b), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission shall commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

§12. Findings and referendum

“(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553(c)), the commission shall make findings of fact with respect to:

“(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

“(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate milk supply for the milk handlers who have regulated the area and for manufacturing purposes.

“(3) Whether the major provisions of the order or any of the fixed minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

“(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen.

*§13. Producer referendum

“(a) For the purpose of ascertaining whether the major provisions of the regulations pertaining to establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (b), as amended, the commission may conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by the commission in the regulation of the terms and conditions of the proposed order or amendment shall be described in the commission’s statement of basis and purpose required by section to the appropriate state enforcement state to compel the attendance of witnesses and issue subpoenas throughout all signatory states to the compact, the commission shall remove such producer’s name from the list certified by such cooperative with its corporate vote.

“(b) In order to assure that all milk producers are informed regarding the proposed order, the commission shall notify all milk producers that an order is being considered and that the commission is considering its approval or disapproval with the commission either directly or through its or her cooperative.

*§14. Termination of over-order price or marketing order

“(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this section whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but no order or provision thereof shall be so terminated unless it has been announced on or before such date as may be specified in such marketing agreement or order.

“(b) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553).

ARTICLE VI. ENFORCEMENT

§15. Records; reports; access to premises

“(a) The commission may by rule prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of any regulation of the commission, any person regulated under this article whenever it finds that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations prescribing the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general search warrants to any number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

“(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

§16. Subpoena; hearings and judicial review

“(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

“(b) Upon application to an order may file a written petition with the commission stating that any such order or any provision
of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

"(C) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines, a commission, in the exercise of its general power under section six, subdivisions (d), paragraph (1), to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler, which assesses milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes, in an amount not to exceed $0.015 per hundredweight of milk purchased from producers during the period of the assessment. Such assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

"(b) The commission shall not pledge the credit of any participating state, or of the United States, Notes issued by the commission and all other financial obligations incurred by it, shall be the sole responsibility of the commission. If the commission shall be unable to meet its obligations, the United States shall be liable therefor.

§ 19. Audit and accounts

"(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

"(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

"(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of any participating state or of the United States.

ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

§ 20. Entry into force; additional members

"The compact shall enter into effect when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

§ 21. Withdrawal from compact

"Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to the withdrawing party prior to the time of such withdrawal.

§ 22. Severability

"If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provisions involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact.

In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact.

SEC. 4. PACIFIC NORTHWEST DAIRY COMPACT.

Congress consents to a Pacific Northwest Dairy Compact proposed for the States of California, Oregon, and Washington, subject to the following conditions:

1. TEXT.—The text of the Pacific Northwest Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) References to "south", "southern", and "Southern" shall be changed to "Pacific Northwest".

(B) In section 9(b), the reference to "Atlanta, Georgia" shall be changed to "Seattle, Washington".

(C) In section 20, the reference to "three" and all that follows shall be changed to "California, Oregon, and Washington".

2. LIMITATION OF PRICE REGULATION.—The Dairy Compact Commission established to administer the Pacific Northwest Dairy Compact (referred to in this section as the "Commission") may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined in a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 690c), reenacted with amendments by the Agricultural Marketing Act of 1997 (9 U.S.C. 1932 note), as a "Federal milk marketing order".

3. EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Pacific Northwest Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

4. COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year, the commission shall be entitled to receive a compensation for its services as provided in section 8c of the Agricultural Adjustment Act of 1937 (7 U.S.C. 690c).

5. MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

SEC. 5. INTERMOUNTAIN DAIRY COMPACT.

Congress consents to an Intermountain Dairy Compact proposed for the States of Colorado, Nevada, and Utah, subject to the following conditions:

1. TEXT.—The text of the Intermountain Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) In section 1, the references to "southern" and "south" shall be changed to "Intermountain" and "Intermountain region", respectively.

(B) References to "Southern" shall be changed to "Intermountain".

"(A) To provide for its start-up costs, the commission is hereby empowered to file an application with Congress for a sum not to exceed $500,000 to be chargeable to a participating state prior to the time of such withdrawal.

"(B) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price or a compact marketing order, or other regulations adopted pursuant to this compact shall:

1. Commencing an action for legal or equitable relief brought in the name of the commission or agency of a federal court of competent jurisdiction;

2. Refer all the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

3. With respect to handlers, the commission may bring an action for injunction to enforce any order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.
By ratifying the Southern Dairy Compact we have the opportunity to assure consumers an adequate, affordable and plentiful supply of milk while preserving the health of farms, whose social and economic contributions remain so critical to the vitality of our country’s rural communities.

In my State of Louisiana, over four hundred dairy farmers help maintain economic stability in one of our Nation’s poorest regions. In the past ten years, nearly a quarter of the dairy farms in my State have gone out of business, and many more are in danger of shutting down unless we authorize the return of milk pricing power back to the States. Had Louisiana been a member of a Southern Dairy Compact last year, its 468 dairy farms would have received $11.9 million in compact payments, increasing the compact payment to Louisiana dairy farmer by nearly thirteen percent. This, at a time when dairy farmers are faced with depressed prices not seen in the last 25 years.

There are those in Congress who have opposed dairy compacts on the day the idea was introduced. However, dairy compacts are not antitrade, do not increase milk production and milk from outside the compact region is not excluded from sale in the compact region. Over the past five years, New England’s dairy farmers have put into practice the compact’s promise of providing stable prices for farmers and consumers, strengthening rural communities and preserving our environment. It is time to allow the States the opportunity to provide their farmers the stability they so desperately need.

Ms. COLLINS. Mr. President, I rise today to strongly support the extension of the Dairy Compact in the Northeast. The Northeast Dairy Compact has proven successful in balancing the interests of processors, retailers, consumers and dairy farmers by maintaining milk price stability. Last year, 458 dairy farmers in Maine received payments under the compact totaling nearly $4.8 million. The payments averaged approximately $10,500 per farmer, or enough to help farmers maintain viable operations, sustain rural communities, and ensure a reliable supply of wholesome dairy products for consumers.

The Northeast Dairy Compact is an innovative approach to promoting stability in the New England dairy industry. The Compact provides for a commission, comprised of delegates from the Northeast Dairy Compact and allows other regions of the country to form compacts as well. In doing so, our bill extends to additional consumers and producers the benefits we enjoy in the Northeast.

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of such uncertainty, the current Federal price support system was designed to provide basic levels of assistance to dairy farmers. Unfortunately, the support provided, while helpful, is often inadequate. Many dairy farmers in New York and elsewhere are unable to operate at a profit. As a remedy, the Dairy Compact was designed to provide producers with supplemental support through assessments to processors, when the Marketing Order price is low. Most importantly, the price stability afforded by the Compact is especially important to farmers as a planning tool.

As originally implemented, the Dairy Compact did not include New York. The Bill that has been introduced would allow New York State and other States in the Northeast, Southeast and elsewhere to expand the Compact. The New York Legislature, like 25 other State Legislatures, has voted to join the Compact. Why? Because over the 4 years that the Compact has been in existence it has made the difference for many family dairy farmers between surviving as a dairy producer or selling their land for development which is slowly decimating our rural landscape. It has helped us maintain a local supply of affordable milk for consumers including women and children throughout the Compact region at no cost to the government and without placing an undue burden on consumers.

New York is an important dairy producing and consuming State. As of the year 2000, we had about 7,200 dairy herds and produced 11.9 billion pounds of milk. That year, New York ranked third behind California and Wisconsin in both the number of milk cows and total milk produced. The viability of dairy farms is very, very important to my State. If New York had not been a member of that compact that year when dairy prices were at rock bottom, they would have received an average payment per farm of $18,200. While that payment would not lead to prosperity, it would help keep the farm going.

Several New York dairy farms sell milk to the Compact, and thus receive some of these benefits. I want to ensure that all dairy farms are in the State can participate, and the only way to do that is to expand the Compact.

Opponents of the Compact claim that if it were to be expanded, farmers in the Northeast and Southern States would overproduce fluid milk thus driving prices down in other parts of the country. This is not the case. The Compact legislation that we propose today specifically acts to prevent such an over production through a supply management feature that rewards dairy producers in the Compact who maintain relatively stable levels of production. If needed, this tool could be used to control overproduction from an expanded Compact and thus minimize negative impacts elsewhere.

Other important features of the Compact that are important to remember include the following: It has been fully reviewed and found to be legal. It includes a feature to protect disadvantaged women, infant and children, and in fact, in the year 2000, the Compact paid the WIC program close to $1.8 million to reimburse WIC for any extra expense the program incurred under the Compact. Approximately 1 percent of Compact payments are similarly set aside to reimburse school lunch programs.

I am concerned about the move towards consolidation in the dairy industry. While some concentration is to be expected, recent trends indicate that a few very large dairy operations and processing plants are grabbing up more and more. Many dairy operations are also buying up land to feed their huge herds. By helping small at-risk farms stay afloat, the Compact is a hedge against unhealthy amounts of consolidation. It also helps to preserve the rural life style, the countryside settings with open spaces, and the economic core of communities that are so important to my New York and so many others.

In sum, the Dairy Compact is an effective way for States, New York and others, to obtain from Congress the regulatory authority over the region’s interstate markets for milk. It offers a price stability that is incredibly helpful, and it helps to slow the demise of a tradition that our country holds dear, the family farm.

Ms. SNOWE. Mr. President, I rise today to join Senator SPECTER of Pennsylvania in support of the Dairy Consumers and Producers Protection Act of 2001. We are joined by 37 of our colleagues from New England and throughout the Mid-Atlantic and the Southeast.

This legislation reauthorizes the very successful Northeast Interstate Dairy Compact which allows the producers of milk to, as a dairy farmer from York County, ME, recently said, set a little higher bottom for the price of locally produced fresh milk. The current Compact only adds a small incremental cost to the current Federal milk marketing order system that already sets a floor price for fluid milk in New England. The bill also gives approval for States contiguous to the participating New England States to join, in this case, Pennsylvania, New York, New Jersey, Delaware, and Maryland.

The legislation also grants Congressional approval for a new Southern Dairy Compact, made up of 14 States: Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia.

This issue is really a State rights issue more than anything else, Mr. President, as the only action the Senate needs to take is to give its congressional consent under the Compact Clause of the United States Constitution, Article I, section 10, clause 3, to allow New York and the other States to work with their two independent compacts.

All of the legislatures in these twenty-five States have ratified legislation that allows their individual States to join a Compact, and the Governor of every State has signed a compact bill into law. Half of the States in this country, await our Congressional approval to address farm insecurity by stabilizing the price of fresh fluid milk on grocery shelves and to protect consumers against volatile price swings.

All of the Northeast and Southern Compact States together make up about 28 percent of the Nation’s fluid milk market—New England production is only about 31.2 percent of this. This Dairy Compact originated as Minnesota and Wisconsin which together make up to 24 percent of the fluid milk market. California makes up another 20 percent.

Over ninety-seven percent of the fluid milk market in New England is contained within the area, and fluid milk markets are local due to the demand for freshness and because of high transportation costs, so any complaints raised in other areas about unfair competition simply does not hold water. The existence of the Northeast Dairy Compact does not threaten or financially harm any other dairy farmer in the country. Nor is there one penny of Federal funds involved—not one cent.

Only the consumers and the processors in the New England region pay to support the minimum price to provide for a fairer return to the area’s family dairy farmers and to protect a fairer competition simply does not hold water. The existence of the Northeast Dairy Compact does not threaten or financially harm any other dairy farmer in the country. Nor is there one penny of Federal funds involved—not one cent.

When Congress wants to try something new, it often sets up a pilot program to test out an idea in a particular locality or region, and then appraises the outcome to see if the project was successful. This is how the Northeast Dairy Compact originated as Minnesota and Wisconsin included in the 1996 Farm bill as a three year pilot program—to sunset on April 4, 1999—at the same time as the adoption of the required consolidation of Federal milk marketing orders. The milk marketing orders were extended until October 1, 1999 in the Omnibus Appropriations of FY 1999, which also automatically extended the Compact until October 1, 1999.

Because of efforts by myself and other Compact supporters, we fought to receive a two-year extension of the Northeast Compact, which was incorporated in the Omnibus spending bill funding several government agencies
for FY 2000. The Compact will expire on September 30 of this year if no further action is taken by this body.

I wish to make it clear to my colleagues how important the continuation of the Northeast Dairy Compact is to me and the dairy farmers and consumers in Maine. I stand here not with my hand outstretched for federal farm dollars for Maine—of all income received by farmers in my State, only about 9 percent comes from Federal funding, unlike other States whose income received through Federal dollars is well over 75 percent—rather to urge you to support a very successful program that does not cost the Federal government one penny—not one cent, and is supported by the very people who are affected by it.

I plan to use every avenue open to me to maintain the fluid milk market in place. I will not gamble with the livelihoods of the dairy farmers of Maine in that irresponsible fashion.

All during the time of the Northeast Compact, fluid milk prices in New England have been among the lowest and have reflected great price stability. The consumers of New England have been spending a few extra pennies for fresh fluid milk—a recent University of Connecticut report recently estimated no more than 4.5 cents a gallon—to ensure that the milk that can lead to higher milk prices through increased transportation costs and increased vulnerability to natural catastrophes.

The bottom line is, the Compact has helped the economies of the New England States. The presence of farms are protecting open spaces critical to every State’s recreational, environmental and conservation interests. These open spaces also serve as a buffer to urban sprawl and boost tourism so important to my home state of Maine.

Through its bylaws, the Compact has also preserved State sovereignty by adopting the principle of “one state—one milk price.” One regional pricing change be approved by two-thirds of the participating states in the Compact.

There are compensation procedures that are implemented by the New England Dairy Commission specifically to protect against increased production of fresh milk. The Compact requires that the Compensation Commission take such action as necessary to ensure that a minimum price set by the commission for the region over the Federal milk market will not create an incentive for producers to generate additional supplies of milk. When there has been a rise in the Federal floor price for Class I fluid milk, the Compact has automatically shut itself off from the pricing process. Since there is no incentive to overproduce, there has been no rush to increase milk production in the Northeast as was feared by Compact opponents. No other region has shown their willingness to pay a premium for their milk if the additional money is going directly to the farmer.

The Compact has also protected future generations by helping local milk processors avoid market failures and preventing a dependence on milk as a single source of milk that can lead to higher milk prices.

The Compact has also protected future generations by helping local milk processors avoid market failures and preventing a dependence on milk as a single source of milk that can lead to higher milk prices. The Compact has provided an adequate supply of fresh milk for the average New York dairy farm, for each farm, thereby increasing income for the average New York dairy farm by approximately eight percent.

In addition, New York farms and fields have become prime land for development and sprawl. We must make sure that farmers all across New York and around the country get the help that they need to hold onto their farms, and to preserve our fields and open spaces. They are an important part of what makes New York so unique and so beautiful.

Helping to preserve New York’s dairy farms by expanding the Northeast Dairy Compact is the right thing to do. Not only does it ensure the security of our dairy farmers in New York and in other parts of the country, it guarantees an adequate supply of fresh milk.
Mr. President, today, I rise today to express my support for the Dairy Consumers and Producers Protection Act of 2001, important legislation that would re-authorize and expand the Northeast Dairy Compact, and ratify a Southern Compact. Growing support and recognition of the effectiveness and ingenuity of the Northeast Dairy Compact has led twenty-five States to enact compact legislation. These States now look to Congress to grant them the right to join the Northeast Compact, or to form a Southern Compact.

It is critical that we keep pace with the demands of State governments, and provide them with the authority to develop a regional pricing mechanism for Class I milk. States on the periphery to the Compact face radically different conditions and factors of production. Differences in climate, transportation, feed, energy and land value validate the need for regional pricing. Compacts allow States to address these differences and create a price level that is appropriate for producers, processors, retailers, and consumers.

The Northeast Dairy Compact was originally authorized as a three-year pilot program in the 1996 Farm Bill. Since July of 1997, when the Compact Commission first set the Class I over-order price at $16.94, the Northeast Dairy Compact has proven to be a great success, providing farmers with a fair price for their milk, protecting consumers from price spikes, reducing market dependency upon milk from a single source, controlling excess supply, and helping to preserve rural landscapes by strengthening farm communities. And, unlike so many of our current programs, the program's benefits of the dairy compact are realized at no cost to the Federal Government.

The Northeast Dairy Compact is managed by the Compact Commission. The Commission, comprised of 26 delegates from the six New England member States, includes producers, processors, retailers and consumer representatives. Each State governor appoints three or five delegates to represent their State's vote on the Commission. The Commission meets monthly to evaluate and establish the current Compact over-order price for Class I (fluid) milk. Using a formal rule-making process, the Commission hears testimony to establish a price that takes into account the purchasing power of the public, and the price necessary to yield a reasonable return to producers and distributors. Any price change proposed by the Commission is subject to a two-thirds vote by the State delegations as well as a producer referendum.

The Compact Commission's price regulation works in conjunction with the Federal Government's pricing program, which establishes minimum prices paid to dairy farmers for their raw milk. Under the program, processors pay the difference between the Compact over-order price for fluid milk, currently $16.94, and the price established monthly by federal regulation for the same milk. The over-order premium is paid on class I (fluid) milk, and is only paid when the Compact over-order price is higher than the price set by the Federal milk marketing orders. Processors purchasing milk for other dairy products such as cheese or ice cream are not subject to the Compact's pricing regulations, although all farmers producing milk in the region, for any purpose, share equally in the Compact's benefits.

In order to protect low-income consumers from any increases in cost caused by the Compact, the Compact legislation imposes regulations on the Commission requiring that the Women, Infants and Children, WIC program, as well as School Lunch Programs, must be reimbursed for any additional costs they may incur as a result of compact activity. Three percent of the pooled proceeds are set aside to fulfill these obligations.

Compact legislation also contains a clause that holds the Commission responsible for any purchases of milk or milk products by the Commodity Credit Corporation, CCC, that result from the operation of the Compact. The Secretary of Agriculture has the authority to determine those costs and ensure that the Commission honors its obligations.

After money is withheld for the WIC and School Lunch programs, as well as the CCC, the Compact Commission makes disbursements to farmer cooperatives, processor cooperatives, and States. These entities then make payments to individual farmers based on their level of production. These payments are only made when the Federal market order price falls below the price set by the Compact Commission, effectively creating a floor for milk prices. This, in turn, decreases price volatility in the region.

The stability created by the Compact pricing mechanism is important for farmers. It guarantees farmers a fair price for their product and allows them to plan for the future. Farmers, knowing that they can count on a fair price, can allocate money to purchase and repair machinery, improve farming practices, and above all, stay in business.

Throughout our great Nation, the family farm continues to be a vital part of our rural community and agricultural infrastructure. In New England and across our country, farms continue to support our rural economies. Farms create economic stability by supporting local businesses such as feed stores, farm equipment suppliers and local banks. The continuing disappearance of small farms is making life very difficult for agri-businesses and disrupting the overall rural economic infrastructure.

The importance of the family farm extends well beyond the rural economy, however. Preservation of the family farm has important environmental consequences as well. Numerous environmental organizations have expressed their support for dairy compacts. They recognize the ability of compacts to protect our farms and preserve our dairy industry. These organizations include the Sierra Club, the Conservation Law Foundation and the National Trust for Historic Preservation. These groups, as well as numerous other environmentally conscious organizations, recognize farmers as good stewards of the environment and value the ability of farms to sustain productive use of the land, while preserving open space.

Even though compacts enjoy widespread support across much of our country, opponents have worked tirelessly to discredit the merits of dairy compacts. These critics, however, must contend with the strong record of success that the Northeast Dairy Compact has put forth.

During its first four years, the Northeast Compact has stood up to numerous legal challenges. Courts have ruled in favor of the Compact on every level, including the U.S. Supreme Court. The courts have recognized the Compact as a proper and constitutional grant of congressional authority, permitted under the Commerce and Compact clauses of the U.S. Constitution. These decisions have upheld the Commission's authority to regulate milk within the region, as well as milk produced outside of the region.

Concerns have also been raised about the Compact's effect on interstate trade. Opponents of the Northeast Compact argue that compacts restrict the movement of milk between States that are in the Compact, and States that lie outside the Compact. Compacts, however, do not restrict the movement of milk into the region. For example, producers in eastern New York State benefit from the Northeast Compact. By shipping their milk into the region, farmers are eligible to receive the Compact price for their products.

Another common misconception is that the Compact leads to overproduction. The Northeast Dairy Compact, however, has not led to overproduction during its first four years. In fact, during 2000, the Northeast Dairy Compact states produced 4.7 billion pounds of milk, a 0.6 percent reduction from 1999. Since the Northeast Dairy Compact was implemented, milk production in the region has risen by just 2.2 percent. Nationally, milk production rose 7.4 percent from 1997 to 2000. Over this same period, California, the largest...
milk producing State in the country, increased its milk production by 16.9 percent.

To protect against overproduction, the Compact Commission has developed a supply management program that rewards farmers who do not increase production. Under the program, 7.5 cents per hundred-weight is withheld by the Commission. This money is refunded to producers that have not increased their production by more than 1 percent during the given year. While this program has only been in place since 2000, we believe that it will be a useful tool in preventing overproduction.

Finally, opponents argue that compacts are harmful to consumers, especially low-income consumers. The facts show that this is not the case. On May 2, 2001, an independent study out of the University of Connecticut’s Food Marketing Policy Center offers new evidence regarding the impact of the Northeast Dairy Compact on consumer prices. The Food Marketing Policy Center performed a four-year analysis of retail milk prices using supermarket scanner data from 18 months prior to Compact implementation, up through July of 2000. This period of time captured the volatile prices preceding Compact implementation, as well as the pricing behavior that followed. The study found that the Northeast Dairy Compact was responsible for only 4.5 cents of the 29-cent increase in retail prices following Compact implementation. The study concludes that wider profit margins by processors and retailers account for 11 cents of the 29-cent increase. Since the Compact went into effect, these wider profit margins have drawn nearly $50 million out of the pockets of New England consumers.

The study suggests that retail stores and processors have used retail price gouging and “tacitly collusive price conduct” to lock in wider profit margins. The study states: “Leading firms in the supermarket-marketing channel have used their dominant market positions to elevate retail prices in the Northeast Dairy Compact Region.” In conclusion, the study contends: “The major policy purposes is subject to the compact. Essentially, the compact process resulted in higher average milk costs for processors and conserve open land.

Under our legal system, individual states have the authority to establish their own dairy pricing mechanism. Because of the nature and size of the dairy industries in the Northeast and South, states in these regions are better served by coming together to form a unified pricing mechanism. By supporting the rights of states to form dairy compacts, we maintain the safety and continuity of our milk supply, protect consumers from volatile milk prices, and conserve open land.

Arguably, this is proof that consumers are not opposed to dairy compacts even though it has resulted in higher prices. The reason could be that the extra revenue the compact price generates over and above the federal order price (when, and only when, it is higher than the set compact price) goes directly to the dairy farmers.

Another reason could be that a compact minimum Class I price removes much of the volatility from consumer prices. Just as there was a lot less volatility in milk prices when the support price was $13.10, there is a lot less volatility when Class I has a minimum price.

Still another reason could be that consumers like the idea of milk for their kids being produced “locally.” Milk isn’t orange juice. It has a different mystique. Even though the milkman delivering “fresh” milk to the consumer’s doorstep is a thing of the past, that doesn’t mean that consumers don’t want fresh milk.” At this time, I would ask unanimous consent that Jim Tillison’s article, “Let’s Talk About Compacts” be submitted for the RECORD.

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Here we go again. The issue of dairy compact is “heating up” once again. Studies have been done and to now one’s surprise they are biased depending on which aide you are on. Let’s take just a look at all the rhetoric to what is causing all the stir and discuss the stir that is being caused.

First, let us review the process involved in putting a dairy compact in place.

Essentially, the compact process result in negating interstate commerce laws. In other words, it allows the dairy producers in a number of states to regulate the price of milk paid by fluid processors in those states. Any milk brought into the state for fluid purposes is purchased at the class I price.

The process starts with the state legislatures in each state in which interested producers reside passing legislation supporting the compact. These include decreases in retail price volatility and the need for a fresh supply of milk. Tillison states, “Consumers like the idea of milk for their kids.” At this time, I would ask unanimous consent that Jim Tillison’s article, “Let’s Talk About Compacts” be submitted for the RECORD.

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vote on the compact on its own. It was only supposed to be a transition program while federal order reform was taking place. Secretary of Agriculture Dan Glickman didn’t have to implement it. Don’t try to respond to those kind of comments. What hearing was ever held or separate vote taken on forward contracting? I don’t recall any serious discussion of the portion of a recent budget bill that exempted one county in Nevada from federal order Class I differentials. Of course Glickman had to implement it . . . the pet project of a Vermont Democratic senior senator in an election year. Think about it.

The dairy industry has many more important issues to spend political capital on. Issues that really are having, or will have, an impact on it. Instead of fighting over compacts, it should be working together to improve our potential for growth in world markets through real pushing for fair trade, dealing with environmental and food safety issues and developing programs that will allow all segments of the industry to continue to prosper in the 21st century.

The views expressed by CMN’s guest columnists are their own opinions and do not necessarily reflect those of Cheese Market News.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 119—TO DESIGNATE THE MONTH OF NOVEMBER 2001 AS "NATIONAL AMERICAN INDIAN HERITAGE MONTH"
Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. AKAKA, Mr. STEVENS, Mr. CORZINE, Mr. BROWNBACK, Mr. MCCAIN, Mr. DASCHLE, Mr. JOHNSON, Mr. COCHRAN, Mr. Baucus, Mr. CONRAD, Mr. DOMENICI, Ms. STABENOW, Mr. BINGMAN, Mr. CRapo, Mrs. MURRAY, Ms. CANTWELL, Mr. WELSTONe, Mr. THOMAS, Mrs. BOXER, Mr. KENNEDY, Mr. DAYTON, Mr. CRAIG, Mr. REID, Mr. SMITH of Oregon, Mr. KERRY, Mr. ALLARD, Mr. DORGAN, Ms. BOREN, and Mr. BEAUX) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 118

Whereas American Indians, Alaska Natives, and Native Hawaiians were the original inhabitants of the land that now constitutes the United States;
Whereas American Indian tribal governments developed the fundamental principles of freedom, of speech and separation of powers that form the foundation of the United States Government;
Whereas American Indians, Alaska Natives, and Native Hawaiians have traditioned exhibiting a respect for the finiteness of natural resources through a reverence for the earth;
Whereas American Indians, Alaska Natives, and Native Hawaiians have served with valor in all of America’s wars beginning with the Revolutionary War through the conflict in the region, over 17,000,000 people have already lost their lives to AIDS or AIDS-related illnesses, with another 24,000,000 living with AIDS, according to the World Health Organization and Joint United Nations Program on HIV/AIDS;
Whereas AIDS pandemic-related statistics are especially staggering in sub-Saharan Africa, and incidences of contraction of HIV, AIDS, and related diseases are growing in the Caribbean basin, Russia, China, Southeast Asia, and India at alarming rates;
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