Section-by Section Analysis

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sections 101 through 106 would authorize appropriations for fiscal year 2012 for the procurement accounts of the Department of Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012.

Section 103(b) would authorize advance appropriations for the Advanced Extremely High Frequency communications satellites and certain classified programs for fiscal years 2013 through 2017.

Subtitle B—Army Programs

Section 111 would allow the Secretary of the Army to enter into a multiyear contract for UH-60M/HH-60M helicopter airframes and, acting as the executive agent for the Department of the Navy, for MH-60R/S airframes for the fiscal year (FY) 2012 through 2016 program years. The current Multi-Year Procurement (MYP) (FY 2007-2011) is producing cost avoidance of approximately 4 percent, and is facilitating industry stability. The Department of Defense expects the follow-on MYP to yield significant cost avoidance benefits.

The UH-60M/HH-60M Black Hawk is one of the core aviation programs and is approved through the current Five Year Defense Program (FYDP). The minimum need for the UH-60M/HH-60M Black Hawk is not expected to decrease during the contemplated contract period, as the requirement for over 1,800 replacement aircraft will support production well into the 2020s. The requirement for both the MH-60R and the MH-60S aircraft is well documented within the Navy. The Navy's total MH-60 requirement is set forth in the Navy Aviation Plan 2030. Both the MH-60R and the MH-60S are key components in the Navy's investment strategy for long range recapitalization and modernization requirements needed to support the tenets of the maritime strategy.

Budget Implications: The previous multiyear contract (MYP-7; FYs 2007-2011) is currently estimated to result in a cost avoidance of 4.0 percent. This proposed Multiyear Procurement (MYP-8) is anticipated to result in a cost avoidance of 10.5 percent. The substantial increase in cost avoidance is attributed primarily to reduced Labor and Overhead rates that results from a stable long term procurement, as well favorable inflation and fee impacts.

Labor costs are projected to be significantly lower due to enhanced workforce stability. This stability is based on assumed lower employee turnover from having a guaranteed minimum production base to forecast labor needs, and avoiding hiring spikes and sudden layoffs. In addition, the more stable workforce will avoid a loss of learning accumulated from previous multiyear procurements.

Overhead rates are projected to be lower as a result of avoidance of any production break, as well as the use of Economic Ordering Quantity (EoQ) acquisition of material. In addition, the long term stable procurement increases the likelihood the prime contractor will include other potential aircraft buys (i.e.; FMS and Other Government sales) in the assumed business base pricing for all five years of the planned MYP. In the past the exclusion of other buys such as FMS and other government aircraft (OGA) buys, from the prime contractor's annual and multiyear estimates, resulted in a spike in assumed material overhead rates.

Material costs are projected to be significantly lower as compared to single year buys. Annual procurements result in aircraft quantities fluctuating from year to year. This fluctuating business base leads to an increased amount of purchase orders compared to a MYP. A five year MYP provides for a more assured stable production base. The prospect of a long term five year buy will enable the prime contractor to secure Long Term Agreements (LTAs) with sub-vendors, and make greater use of EoQ buys of materials as well as utilize the work force more efficiently. The Department's MYP estimate assumes the prime contractor will be much more aggressive in the pursuit of LTAs with major sub-vendors. Securing LTAs with sub-vendors will be enhanced by inclusion of significant potential FMS and OGA business likely to occur over the five year span of the multiyear buy.

In addition, more favorable labor costs, material costs and overhead rates are anticipated to have a synergistic impact on the overall cost of this multiyear buy. Recognizing the reduced risk to the prime contractor's business base, the anticipated fee is estimated to be lower. The business base impact from more stable planning in terms of labor force, material orders and overhead rates can be captured by the government as well as continued inflation benefits from a stable buy utilizing economical material orders.

This follow-on MYP for helicopter airframes (FY 2012-2016) is anticipated to result in cost avoidance totaling 10.5 percent. Budget estimates and associated funding levels for UH-60M/HH-60M and MH-60R/S helicopter airframes for FY 2012 and beyond are predicated on MYP authorization. Without the cost avoidance associated with a MYP, current budget estimates and associated funding levels would be insufficient to support the planned procurement of UH-60M/HH-60M and MH-60R/S helicopter airframes.

The FY 2012-2016 MYP estimates are based on a Government Business Case Analysis (BCA) which was developed from detailed BCA data provided by Sikorsky Aircraft Corporation. Army and Navy calculations show that the total cost avoidance is 10.5 percent, which equates to $915 million.

Multiyear Procurement Summary:

($Millions)		
	Annual Contracts	MYP Alternative
Quantity	565	565
Total Contract Price	$9,611.0	$8,696.0
$ Cost Avoidance Over Annual Budget		$914.5*
% of Cost Avoidance Over Annual Budget		10.5%

* UH-60M/HH-60M and MH-60R/S helicopter airframe programs are budgeted to support a follow-on MYP strategy and not annual contracting. If MYP is not approved, the $914.5 million in cost avoidance will need to be added to program funding levels to ensure the annual contracts are executable.

Changes to Existing Law: This proposal would make no changes to the text of existing law.

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Subtitle C—Navy Programs

Section 121 would allow the Secretary of the Navy to enter into a follow-on multiyear contract or contracts for MH-60R/S Mission Avionics and Common Cockpits for the Fiscal Year (FY) 2012 through 2016 program years. The current multi-year procurement (MYP) (FY 2007-2011) is producing cost avoidance and facilitating industry stability. The Department of Defense expects the follow-on MYP to yield similar cost avoidance benefits.

The Department of the Navy's contracting strategy and budget for the FY 2012-2016 mission avionics and common cockpits assumes that Congress will provide the authority to enter into an MYP contract or contracts for the FY 2012-2016 timeframe. The current strategy also includes applying advance procurement funding in fiscal year 2012 for the follow-on FY 2012-2016 MYP.

Budget Implications: The current MYP for MH-60R mission avionics (FY 2007-2011) resulted in cost avoidance of 3.9 percent and the MYP for common cockpits (FY 2005-2009) resulted in cost avoidance of 14.8 percent. The MYP for mission avionics and common cockpits (FY 2012-2016) is planned as one contract, as opposed to the two separate contracts, and is anticipated to result in cost avoidance totaling 11.2 percent. Budget estimates and associated funding levels for MH-60R/S mission avionics and common cockpits for FY 2012 and beyond are predicated on the MYP authorization. Without the cost avoidance associated with a MYP, current budget estimates and associated funding levels would be insufficient to support the planned procurement of MH-60R/S mission avionics and common cockpits.

The FY 2012-2016 MYP estimates are based on a vendor business case analysis supplied by Lockheed Martin in May 2009 and reviewed by the Navy in May 2009. Navy calculations show that the total cost avoidance is 11.2 percent, which equates to $165.4 million.

Multiyear Procurement Summary:

($Millions)		
	Annual Contracts	MYP Alternate
Quantity	202	202
Total Contract Price	$1,643.5	$1,477.7
$ Cost Avoidance Over Annual Budget		$165.4*
% of Cost Avoidance Over Annual Budget		11.2%

*MH-60R/S programs are budgeted to support a follow-on MYP strategy and not annual contracting. If MYP is not approved, the $165.4 million in cost avoidance will need to be added to program funding levels to ensure the annual contracts are executable.

Changes to Existing Law: This proposal would make no changes to the text of existing law.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Section 201 would authorize appropriations for fiscal year 2012 for the research, development, test, and evaluation accounts of the Department of Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Section 301 would authorize appropriations for fiscal year 2012 for the Operation and Maintenance accounts of the Department of Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012.

Subtitle B—Environmental Provisions

Section 311 would authorize Department of Navy (DON) payment of $45,000 from Environmental Restoration, Navy (ER,N) Restoration Account to EPA to pay stipulated penalties assessed by the EPA through dispute resolution between the Navy and EPA regarding the draft Final Remedial Investigation/Facility Study (RI/FS) for Operable Unit 3T-JPJC at Jackson Park Housing Complex, WA. EPA determined that the draft Final RI/FS failed to comply with the substantive requirement of the Interagency Agreement (Administrative Docket No. CERCLA-10-2005-0023) due to limitations in the number and type of remedial alternatives included.

Budget Implications: The DON stipulated penalty is for $45,000 to be paid in fiscal year 2012. This proposal would be funded with resources requested in the Environmental Restoration, Navy account that is then transferred to the Operation & Maintenance, Navy account during the execution year in accordance with Congressional language.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
O&M,N	0.045	0	0	0	0	ER,N	04	4B2E
Total	0.045	0	0	0	0	ER,N		

Changes to Existing Law: N/A

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Subtitle C—Other Matters

Section 321 would authorize the creation of a readiness reserve subaccount in the Transportation Working Capital Fund. Currently, the law precludes the fund from setting up such a subaccount as the fund must budget to break even using stabilized rates for the customers. Profits in the current year are offset with future rate cuts to bring the fund back to its normal cash amount.

During contingencies, the transportation assets of the Department of Defense experience excessive wear-and-tear and accelerated operations tempo, reducing estimated asset life. Additionally, there is a greater likelihood of catastrophic asset loss during a major contingency. This subaccount provides a straight-forward way for the Department to maintain a viable transportation capacity. The subaccount would not be used as substitute funding for items normally funded by appropriations to the Services. If, due to time constraints, the subaccount is used to purchase or pay for repairs normally funded through Service channels, the applicable Service or funding source will be billed to reimburse the subaccount.

This proposal would also provide the Commander, United States Transportation Command, with the ability to purchase improvements to distribution infrastructure, excluding military construction, at up to ten million dollars per unit. This would, in effect, be similar to Combat Commander Initiative Fund funds, but would be limited to distribution and mobility requirements.

Budget Implications: The proposal will not increase the overall budget requirements of the Department of Defense. Service accounts are still responsible for procurement of replacement transportation assets and repairs. The use of the readiness reserve subaccount to quickly return a lost or damaged capability to revenue producing status will result in greater efficiency and increased revenue for the Transportation Working Capital Fund by avoiding prolonged down time. Repairs or replacements would be accomplished regardless of the source of funds for readiness purposes, so there would be no increase in expenditures, only faster replacement of the lost or damaged equipment.

RESOURCE TRANSFERS ($THOUSANDS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0	O&M, Army - 2080		
Navy	0	0	0	0	0	O&M Navy -		
Marine Corps	0	0	0	0	0	O&M Navy -		
Air Force	0	0	0	0	0	O&M, Air Force 3400		
Total	+0	+0	+0	+0	+0			

NUMBER OF PERSONNEL AFFECTED							
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0		

Changes to Existing Law: This proposal would make the following changes to section 2208 of title 10, United States Code:

§ 2208. Working-capital funds

(a) To control and account more effectively for the cost of programs and work performed in the Department of Defense, the Secretary of Defense may require the establishment of working-capital funds in the Department of Defense to—

(1) finance inventories of such supplies as he may designate; and

(2) provide working capital for such industrial-type activities, and such commercial-type activities that provide common services within or among departments and agencies of the Department of Defense, as he may designate.

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(p) PROCEDURES FOR ACCUMULATION OF FUNDS.—**(1)** The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary.

(2)(A) The Secretary of Defense may establish within the working-capital fund administered by the commander of the United States Transportation Command a subaccount to be known as the readiness reserve subaccount. The Secretary may transfer to, and retain in, that subaccount excess funds received during high-tempo operations in order to fund, to the extent possible, mission-critical catastrophic loss replacement or major repair of transportation assets used to produce revenue for the working-capital fund. The maximum amount that may be maintained in the subaccount is $50,000,000.

(B) The Secretary may use funds in the subaccount—

(i) to repair or replace those assets that commander of the United States Transportation Command requires to directly fulfill the mission of that command; and

(ii) to purchase improvements to distribution infrastructure, excluding military construction, if economically favorable, in amounts not to exceed $10,000,000 per unit.

(C) The subaccount shall be managed so that funds in the subaccount are used to supplement, and not replace, obligations of the military departments for provision of transportation assets.

(D) The Secretary shall provide that, in any case in which funds in the subaccount are used to purchase or pay for a replacement or repair for which funds would otherwise be provided from funds available for one of the armed forces, the otherwise applicable funding source shall reimburse the subaccount.

(E) With the exception of distribution infrastructure, the subaccount may be used only for a repair, replacement, or procurement that is authorized to be carried out by the military department or fund providing the reimbursement for the repair, replacement, or procurement.

(F) The Secretary may use funds in the subaccount for a repair, replacement, or procurement only when a delay in obtaining funds from the military department or fund that would otherwise provide funds for the repair, replacement, or procurement would impair the ability of the commander of the United States Transportation Command to continue mission-critical responsibilities.

(G) The Secretary may use funds in the subaccount to make a purchase in an amount in excess of $10,000,000 only after the Secretary has submitted to the congressional defense committees, not less than 30 days before obligation of funds for the purchase, a written notification of the proposed purchase.

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Section 322. Currently the Department of Defense obtains air transportation services from United States air carriers in proportion to their commitment of aircraft to the Civil Reserve Air Fleet program. Recently, in awarding contracts for helicopter support to coalition operations in Afghanistan, it became apparent that the current language contained in section 41106 of title 49, United States Code, could be interpreted to require contracting with a United States air carrier, even though that air carrier did not have any aircraft capable of fulfilling the contract. The proposed changes to subsections (a), (b), and (c) of section 41106 would standardize the application of the language and clarify that the application of the Section is limited to contracts for airlift services using aircraft of a type the Department of Defense has determined are eligible for participation in the Civil Reserve Air Fleet program.

Budget Implications: This proposal will not increase the overall budget requirements of the Department of Defense. The clarification that the Department will contract with United States Air Carriers participating in the Civil Reserve Air Fleet program when they have aircraft capable of providing the service requested will facilitate timely award to support operational needs.

RESOURCE SAVINGS ($THOUSANDS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	+0	+0	+0	+0	+0	O&M, Army-		
Navy	+0	+0	+0	+0	+0	O&M, Navy –		
Marine Corps	+0	+0	+0	+0	+0	O&M, Marine Corps –		
Coast Guard	+0	+0	+0	+0	+0	O&M, Coast Guard		
Air Force	+0	+0	+0	+0	+0	O&M, Air Force – 3400		
Total								

NUMBER OF PERSONNEL AFFECTED							
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0		

Changes to Existing Law: This section would make the following changes to section 41106 of title 49, United States Code:

§41106. Airlift service

(a) INTERSTATE TRANSPORTATION.--(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by ~~transport category~~ CRAF-eligible aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that--

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.--Except as provided in subsection (d), the transportation of passengers or property by ~~transport category~~ CRAF-eligible aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.--The transportation of passengers or property by ~~transport category~~ CRAF-eligible aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier ~~that has aircraft in the civil reserve~~

~~air fleet~~ referred to in subsection (a) whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.--When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(e) CRAF-ELIGIBLE AIRCRAFT DEFINED.—In this section, "CRAF-eligible aircraft" means aircraft of a type the Secretary of Defense has determined to be eligible to participate in the civil reserve air fleet.

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Section 401 would prescribe the personnel strengths for the active forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's Budget for fiscal year 2012.

Subtitle B—Reserve Forces

Section 411 would prescribe the end strengths for the Selected Reserve of each reserve component of the Armed Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's Budget for fiscal year 2012.

Section 412 would prescribe the end strengths for reserve component members on full-time active duty or full-time National Guard duty for the purpose of administering the reserve forces for fiscal year 2012.

Section 413 would prescribe the end strengths for dual-status technicians of the reserve components of the Army and Air Force for fiscal year 2012.

Section 414 would prescribe the maximum end strengths for non-dual status technicians of the reserve components of the Army and Air Force for fiscal year 2012.

Section 415 would prescribe the maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorization of Appropriations

Section 421 would authorize appropriations for fiscal year 2012 for military personnel.

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TITLE V—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Officer Personnel Policy

Section 501 would limit the number of promotion considerations for commissioned officers, who are employed as military technicians, commensurate with the same number afforded to non-technician peers by restricting the consideration of officers who have been retained beyond MRD for the purpose of achieving an unreduced annuity for a civil service retirement.

Sections 10216(f) and 14702(a)(2) authorize the retention of military technicians, who are commissioned officer, until eligibility for an unreduced civil service annuity and age 60. Since 10 U.S. Code, section 14301 currently requires any officer within the zone to be considered, an officer retained beyond MRD due to employment as a military technician, is continually considered for promotion until age 60. This not only creates inequity amongst peers, but also exacerbates senior grade imbalances in the military technician workforce.

Budget Implications: This proposal would be budget neutral. This is a management tool without no associated costs. The Program Element is 05322152A.

RESOURCE REQUIREMENTS ($ MILLIONS)							
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	132.5	$139.1	$145.9	$152.3	RPA, 1A1102000	01	NA
Army	325.9	342.1	358.8	374.7	RPA, 1B1102000		
Navy						01	NA
AF						01	NA
Total					Reserve Personnel (RPA)	01	NA

NUMBER OF PERSONNEL AFFECTED								
Service	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**Appropriation TO**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0			
AF	0	0	0	0	0			
Total	0	0	0	0	0			

Changes to Existing Law: This proposal would insert a new paragraph after paragraph (h) to section 14301 of title 10, United States Code, as follows:

§ 14301. Eligibility for consideration for promotion: general rules.

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(i) Certain Reserve Officers. – A reserve officer who is employed as a military technician (dual status) under section 10216 of this title, and who has been retained beyond mandatory removal date for years of service under the provisions of either section 10216(f) or 14702(a)(2) of this title, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

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Subtitle B— Reserve Component Management

Section 511. Section 1142 of title 10, United States Code, requires the Armed Forces, including the Coast Guard, to provide preseparation counseling to all Service members, regardless of the component, who are discharged or released from active duty (separated or retired) after completing the first 180 days of active duty. For those whose discharge or release from active duty is anticipated as of a specific date, preseparation counseling must commence no later than 90 days prior to the date of discharge or release. Reserve component (RC) members are often still in the theater of operation 90 days prior to separation/demobilization, making the 90-day requirement impractical. Preseparation counseling for these members typically takes place during the demobilization process, which is generally conducted three to five days prior to the separation date.

In order to bring the reserve components into compliance with the statute, this proposal would authorize the removal of the 90-day requirement for such demobilizing RC members.

Budget Implications: This proposal would change a procedural requirement to an existing program and does not have any budget implications.

Changes to Existing Law: This proposal would make the following changes to section 1142, title 10, United States Code:

§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs.

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, or in the case of a member of a reserve component who is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible, preseparation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

(1) ***

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(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—***

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Section 512. Section 10216(f) of title 10, United States Code, directs the Secretary concerned to implement personnel policies so as to allow the continuation of a military technician in the Selected Reserve, it is reasonable to assume that, like any other request for service from a military or governmental agency, reasonable processing requirements may be implemented to facilitate the decision-making process. Therefore, this proposal would allow the Department of Defense to include submission and processing policy requirements that may be applied to military technicians (dual status) when these individuals request military retention beyond a mandatory removal date or a maximum years of service requirement. These documents are necessary to establish continued qualification for military retention and a timeline that allows for movement of the action through the normal staffing processing to the ultimate approval authority (in the Army Reserve, that specific authority has been delegated to the Chief, Army Reserve with general authority reserved to the Assistant Secretary for Manpower and Reserve Affairs).

There is confusion among the Reserve Components as to the submission and processing policy requirements that may be applied to military technicians (dual status) when these individuals request military retention beyond a mandatory removal date or a maximum years-of-service requirement. Service members who fail to be retained by an appropriate approval

authority before reaching service dates specified in law may be automatically transferred to the Retired Reserve or separated from military service. Since the consideration of virtually every military or civilian personnel action requires the submission of specific documents, through an established chain of command, to a decision-making authority (typically a flag-rank officer or Secretarial-level civilian), the Army and Air Force need clear authority to establish reasonable requirements. Failure to adhere to such policies, in the absence of circumstances beyond the individual's control, may result in an unfavorable decision.

Budget Implications: Extending the mandatory removal date (MRD) for all military technicians who are officers creates an imbalance within the force. Extending a MRD for military technician officers generates over strength/grade assignments. Approximately 20 percent of these extensions result in an invalid assignment during one of the years within the five year extension authorized by current law. At the highest point, there are approximately 100 lieutenant colonels and colonels with an extended MRD. Twenty percent of this pool is 5 officers over strength/grade during a given year. Taken at the high end, for a colonel, the annual base pay and retired pay account contribution amount for 48 inactive duty training (IDT) drill periods and 15 days of annual training (AT) at a rate of $341.60 per AT day (Fiscal Year 2010 rates) and $323.90 per IDT equates to $2,0671.20. Retired pay accrual is 24.4 percent, yielding a grand total of $25,714.97 for one over strength/grade colonel. A policy that provided the opportunity to institute reasonable personnel policies in managing the MRD would preclude over strength/grade assignments. Hence, if enacted, the Army Reserve would avoid $128,575.00. There is no other budgetary impact garnered by this legislative proposal.

The proposed change is administrative in nature. No additional Operation and Maintenance, Army Reserve funding or authorizations are required to institute this change. Currently, the Air Force Reserve (AFR) has 1,422 Officer Air Reserve Technician (ART) positions authorized. The Officer of the Air Force Reserve Comptroller's cost methodology assumes that, of those ARTs currently serving, less than 5 percent will reach the ages of 55-60 over the Future Years Defense Program (FYDP). Each ART officer who extends the officer's MRD would cost the Air Force approximately $110,000 per year. Enacting this legislation and allowing the Secretaries of the Army and Air Force to choose to implement this MRD extension program rather than mandating it may result in an annual cost avoidance of approximately $7.8 - $8.5 million across the FYDP.

RESOURCE SAVINGS ($MILLIONS)								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation**	**Budget Activity**	**Dash-1 Line Item**
Army	$0.129	$0.135	$0.139	$0.148	$0.154	Reserve Personnel, Army	01	10
AFR	$7.8	$8.0	$8.2	$8.3	$8.5	O&M, Air Force Reserve	01	11A
Total	$7.9	$8.1	$8.3	$8.4	$8.7			

NUMBER OF PERSONNEL AFFECTED								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation**	**Budget Activity**	**Dash-1 Line Item**
Army	5	5	5	5	5	Reserve Personnel, Army	01	10
AFR	71	73	75	76	78	O&M, Air Force Reserve	01	11A
Total	76	78	80	81	83			

Changes to Existing Law: This proposal would make the following changes to section 10216(f) of title 10, United States Code:

§10216. Military technicians (dual status)

(a) IN GENERAL.—***

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(f) AUTHORITY FOR DEFERRAL OF MANDATORY SEPARATION.—The Secretary of the Army and the Secretary of the Air Force ~~shall implement~~ may each implement personnel policies so as to allow, at the discretion of the Secretary concerned, a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date for officers (in the case of such a military technician (dual status) who is an officer), and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 60 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).

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Subtitle C—Education and Training

Section 521 would make two changes to section 663 of title 10, United States Code, in order to provide the Secretary of Defense (SECDEF) greater flexibility in the assignment of graduates of the National Defense University (NDU).

The first change would provide authority to assign NDU graduates to organizations that support overseas contingency operations, such as year-long Joint Task Force Headquarters (JTF HQ), which are not permanent positions, or programs such as the innovative Afghanistan Pakistan Hands Program. Currently, NDU graduates must be assigned to traditional Joint Duty Assignment List (JDAL) billets; many of the overseas contingency JTF HQ positions earn joint credit through the experience path, but are not technically "joint duty assignments". This change will allow SECDEF to assign Joint Professional Military Education Phase II (JPME II) graduates

to emerging missions at his/her discretion. This will also provide relief to the Services, as they will be able to fill in-Service billets and maintain the NDU 50+1 outplacement rule.

The second change proposed is contingent upon the passage of a Fiscal Year (FY) 2011 National Defense Authorization Act (NDAA) proposal to amend sections 2154(a)(2) and 2156(b) of title 10, which will authorize a non-resident Joint Professional Military Education Phase II delivery option through the Joint Forces Staff College.

Section 663 of title 10, United States Code, requires all joint qualified officers and greater than 50 percent of the officers not designated as joint qualified, who are graduates of a school within the National Defense University, to be assigned to follow-on joint duty assignments.

This proposal would amend section 663 to specifically exclude non-resident graduates of the National Defense University program taught through Joint Forces Staff College from the joint duty outplacement requirement. Without this amendment, quality officers with compressed career tracks and those in Service billets would be severely restricted from enrolling in the non-resident Joint Professional Military Education Phase II course.

Budget Implications: This initiative is cost neutral. It only provides the Department a certain flexibility to, on a case-by-case basis, assign officers outside of a JDAL position upon NDU graduation. This comports with changes in the FY 2007 NDAA which allows the Department to recognize joint experiences outside of the traditional JDAL positions.

Changes to Existing Law: This section would make the following changes to section 663 of title 10, United States Code:

§ **663. Joint duty assignments after completion of joint professional military education**

(a) JOINT QUALIFIED OFFICERS.—The Secretary of Defense shall ensure that each officer designated as a joint qualified officer who graduates from a school within the National Defense University specified in subsection (c) shall be assigned to a joint duty assignment for that officer's next duty assignment after such graduation (unless the officer receives a waiver of that requirement by the Secretary in an individual case).

(b) OTHER OFFICERS.—(1) The Secretary of Defense shall ensure that a high proportion (which shall be greater than 50 percent) of the officers graduating from a school within the National Defense University specified in subsection (c) who are not designated as a joint qualified officer shall receive assignments to a joint duty assignment **(or, as authorized by the Secretary in an individual case, to a joint assignment other than a joint duty assignment)** as their next duty assignment after such graduation or, to the extent authorized in paragraph (2), as their second duty assignment after such graduation.

(2) The Secretary may, if the Secretary determines that it is necessary to do so for the efficient management of officer personnel, establish procedures to allow up to one-half of the officers subject to the ~~joint duty~~ assignment requirement in paragraph (1) to be assigned to ~~a joint duty~~ **such an** assignment as their second (rather than first) assignment after such graduation from a school referred to in paragraph (1).

(c) COVERED SCHOOLS WITHIN THE NATIONAL DEFENSE UNIVERSITY.—For purposes of this section, a school within the National Defense University specified in this subsection is one of the following:

(1) The National War College.

(2) The Industrial College of the Armed Forces.

(3) The Joint Forces Staff College.

(d) EXCEPTION FOR OFFICERS GRADUATING FROM OTHER-THAN-IN-RESIDENCE PROGRAMS.—

(1) JOINT QUALIFIED OFFICERS.—Subsection (a) does not apply to an officer graduating from a school within the National Defense University specified in subsection (c) following pursuit of a program on an other-than-in-residence basis.

(2) OTHER OFFICERS.—Subsection (b) does not apply with respect to any group of officers graduating from a school within the National Defense University specified in subsection (c) following pursuit of a program on an other-than-in-residence basis,

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Section 522 would amend section 668 of title 10, United States Code, to remove the limitations on the types of instructors included in the definition of "joint duty assignment". The current law excludes instructor positions that may provide an officer significant experience in joint matters from inclusion on the joint duty assignment list and provides undue deference to Joint Professional Military Education Phase II (JPME II) positions. This change would allow the Department of Defense to judge all positions based on the significant experience the position provides an officer in joint matters.

Budget Implications: This proposal does not have a budget implication because it merely makes administrative changes by providing opportunity for positions supporting JPME I and other training and mentoring programs to be considered for inclusion on the Joint Duty Assignment List (JDAL).

Changes to Existing Laws: This section would make the following changes to section 668 of title 10, United States Code:

§ 668. Definitions

(a) JOINT MATTERS.— ***

* * * * * * *

(b) JOINT DUTY ASSIGNMENT.—(1) The Secretary of Defense shall by regulation define the term "joint duty assignment" for the purposes of this chapter. That definition—

(A) shall be limited to assignments in which the officer gains significant experience in joint matters; and

(B) shall exclude student assignments for joint training and education~~, except an assignment as an instructor responsible for preparing and presenting courses in areas of the curricula designated in section 2155(c) of this title as part of a program designated by the Secretary of Defense as joint professional military education Phase II~~.

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Section 523 would give Community College of the Air Force (CCAF) participants who have been categorized as seriously wounded, ill or injured upon separation or retirement up to ten years from their date of separation or retirement to complete their CCAF degree requirements. It also would ensure our seriously wounded, ill or injured members receive the services and support they need throughout the recovery process and also provide a transition into additional educational opportunities through the Montgomery GI Bill or the Department of Veterans Affairs' (VA's) Vocational Rehabilitation program. This proposal would allow the Air Force to extend its commitment to these members into the post-separation period and meet its pledge to care for warriors who have sacrificed so much in the service of our country.

Section 9315 of title 10, United States Code, provides the CCAF with the authority to award associate degrees to: (1) enlisted members serving on active duty and in the Air Reserve Components; and (2) enlisted members of the Armed Forces, other than Air Force, who are serving as instructors at Air Force training schools. Members must complete their degree requirements before they separate, retire, or are commissioned. By law, seriously wounded, ill or injured (WII) service members who leave the Air Force before completing their CCAF degree requirements are no longer eligible to earn a CCAF degree after separation or retirement. Their WII status and premature departure from serving may prohibit CCAF degree completion before separation or retirement.

A ten-year time limit would align with the time limits imposed by civilian colleges and universities impose for degree completion. A review of 23 college programs with time limits found that only three of 23 programs allowed more than ten years for students to complete their degree requirements from date on which they started the program. A ten-year time limit also would align with the ten years members with Montgomery GI Bill benefits have to use their benefits after leaving the service. In addition, the Department of Veterans Affairs (VA) Survivors and Dependents Educational Assistance Program gives veterans ten years to use their educational benefit.

Budget Implications: The Department of Defense has estimated the cost of this proposal as follows:

RESOURCE REQUIREMENTS (MILLIONS) REFLECTED IN PRESIDENT'S BUDGET								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
OM	0.014	0.014	0.014	0.014	0.014	O&M AF	BA 03	033C-320
Total	0.014	0.014	0.014	0.014	0.014			

NUMBER OF PERSONNEL AFFECTED								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	9	9	9	9	9	O&M AF	BA 04	4G-4GTJ
Navy	8	8	8	8	8	O&M AF	BA 04	4G-4GTJ
Marine Corps	5	5	5	5	5	O&M AF	BA 04	4G-4GTJ
Coast Guard	1	1	1	1	1	O&M AF	BA 04	4G-4GTJ
Air Force	509	509	509	509	509	O&M AF	BA 03	033C-320
Total	532	532	532	532	532			
Figures Based on DMDC Data FY10-11 Numbers as Percentage of Wounded Ill and Injured as a % of Total Force								

Cost Methodology: The total annual budget for the CCAF is roughly $8 million. With 322,000 students, the annual cost to operate the CCAF program is $25 per student. There are currently an estimated 509 separated/retired Air Force WII who have not completed their CCAF degree requirements; 509 x $25/yr = $12,700 per fiscal year and $64,000 over the Future Years Defense Program. The cost to maintain the student records for these members is within the current CCAF budget.

Changes to Existing Law: This proposal would make the following changes to section 9315 of title 10, United States Code:

§ 9315. Community College of the Air Force: associate degrees

(a) ESTABLISHMENT AND MISSION.—There is in the Air Force a Community College of the Air Force. Such college, in cooperation with civilian colleges and universities, shall—

(1) prescribe programs of higher education for ~~enlisted~~ eligible members described in subsection (b) designed to improve the technical, managerial, and related skills of such members and to prepare such members for military jobs which require the utilization of such skills; and

(2) monitor on a continuing basis the progress of members pursuing such programs.

(b) MEMBERS ELIGIBLE FOR PROGRAMS.—Subject to such other eligibility requirements as the Secretary concerned may prescribe, the following members of the armed forces are eligible to participate in programs of higher education under subsection (a)(1):

(1) Enlisted members of the Air Force.

(2) Enlisted members of the armed forces other than the Air Force who are serving as instructors at Air Force training schools.

(c) SERIOUSLY WOUNDED, ILL, OR INJURED FORMER AND RETIRED MEMBERS.—(1) The Secretary of the Air Force may authorize participation in a program of higher education under subsection (a)(1) by a person who is a former or retired enlisted member of the armed forces who at the time of the person's separation from active duty—

(A) had commenced but had not completed a program of higher education under subsection (a)(1); and

(B) is categorized by the Secretary concerned as seriously wounded, ill, or injured.

(2) A person may not be authorized under paragraph (1) to participate in a program of higher education after the end of the 10-year period beginning on the date of the person's separation from active duty.

(~~c~~d) ASSOCIATE DEGREES.—(1) Subject to paragraph (2), an academic degree at the level of associate may be conferred under section 9317 of this title upon any ~~enlisted member~~ person who has completed a program prescribed by the Community College of the Air Force.

(2) No degree may be conferred upon any ~~enlisted member~~ person under this section unless the Secretary of Education determines that the standards for the award of academic degrees in agencies of the United States have been met.

_____

Section 524 would consolidate, under one section of law, all military department authority to issue arms, tentage, and equipment to educational institutions not maintaining units of the Junior Reserve Officer Training Corps (ROTC). All military departments are currently authorized to issue arms, tentage, and equipment to educational institutions not maintaining units of Junior ROTC under separate sections of title 10, United States Code.

Budget Implications: None. This proposal would simply consolidate three existing statutes into one statute.

Changes to Existing Law: This proposal would amend title 10, United States Code, by adding a new section 2552a and repealing sections 4651, 7911, and 9651, as follows:

§ 2552a. Arms, tentage, and equipment: educational institutions not maintaining units of Junior ROTC

The Secretary of a military department may issue arms, tentage, and equipment to an educational institution at which no unit of the Junior Reserve Officers' Training Corps is maintained if the educational institution—

(1) offers a course in military training prescribed by that Secretary; and

(2) has a student body of at least 100 physically fit students over 14 years of age.

* * * * * * *

~~**§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.**~~

~~Under such conditions as he may prescribe, the Secretary of the Army may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 100 physically fit students over 14 years of age.~~

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~~**§ 7911. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.**~~

~~Under such conditions as he may prescribe, the Secretary of the Navy may issue arms, tentage, and equipment that the Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 50 physically fit students over 14 years of age.~~

~~* * * * * * *~~

~~**§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.**~~

~~Under such conditions as he may prescribe, the Secretary of the Air Force may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 100 physically fit students over 14 years of age.~~

Subtitle D—Military Justice and Legal Matters

Section 531.

Subsections (a), (b), and (c):

Subsections (a), (b), and (c) of this proposal amend sections 1034 and 1552 and create a new section, 1560, of title 10, United States Code.

Subsection (a) amends section 1034 of title 10 to require a "concise written statement of the basis" for any final decision by the Secretary of a military department or the Secretary of Homeland Security under section 1034(f) or the Secretary of Defense under section 1034(g) which does not grant the complete relief requested by the claimant. This provision also requires the Secretary concerned to accompany such decisions with an explanation of the procedures available to obtain judicial review. In addition, a new subsection, 1034(h), is added which precludes any judicial review of final decisions made under 1034(f) or (g) other than that which is provided for in section 1560. This subsection permits direct judicial review of final decisions of the Secretary of the military departments in cases where the petitioner does not apply for review by the Secretary of Defense.

Subsection (b), under paragraph "(h)", amends section 1552 of title 10 to require the Secretary concerned to provide the same concise rationale and explanation of the procedure for obtaining judicial review that is required under section 1034 for decisions which fail to grant complete relief. In both instances, this requirement was primarily designed to direct the production of a record of decision which could be subjected to a meaningful review in accordance with the provisions of section 1560. In addition, the requirement is an

acknowledgment that applicants to the correction boards[1] would be well served by a meaningful explanation of an adverse ruling. Such explanations may actually serve to dispel the need for some litigation by fostering a legitimate belief by the applicants that their claims have been heard, understood, and given due consideration.

However, most applicants to the correction boards are not contemplating litigation, but are simply seeking a fair and efficient resolution of their grievance. A lucid and succinct explanation that can be obtained within six months is preferable to something akin to a judicial opinion requiring extensive preparation and time. In adopting the explanatory requirement, the intent is to minimize the burden on the correction boards, in the interests of efficiency, while enhancing the legitimacy of the correction boards and preserving the efficacy of judicial review. Accordingly, the language directing the correction boards to explain their decisions should not be construed as imposing any degree of formalism beyond the literal requirements.

In cases in which the administrative record has not been adequately developed or the record of decision is not sufficiently complete, it is intended that the reviewing court would remand the case to the correction board for further action in accordance with the court's instructions.

Finally, a new subsection (i) is added to section 1552 which precludes any judicial review of decisions made under section 1552 except for that provided for by section 1560.

Subsection (c) of the proposal creates a new section 1560. It establishes the jurisdiction and procedures for judicial review of final decisions made under sections 1034(f) or (g) and 1552.

Subsection 1560(a) waives the United States' sovereign immunity over final decisions imposed pursuant to sections 1552, 1034(f), and 1034(g).

Subsection 1560(b) sets out the court's standard of review, substantially adopting, with revision, the standard of judicial review for special selection boards set out in title 10, section 628(g). These revisions consist of clarifying the burden of proof in cases of material error or material administrative error. The court's authority to review factual determinations is limited to ensuring that a challenged decision is supported by at least substantial evidence. This review does not permit the court however to substitute its judgment for that of the military services when reasonable minds could reach differing conclusions on the same evidence.

Subsection 1560(b)(3) provides a harmful error rule applicable to procedural errors. If the petitioner identified to the correction board how the procedural error substantially prejudiced the petitioner's right to relief, and proves by a preponderance of evidence to the reviewing court that the error was harmful, the petitioner will be entitled to relief. As in civilian personnel law, the burden is on the petitioner to establish harmful error. 5 C.F.R. § 1201.56(c)(3). Because the correction boards have authority to consider claims of procedural error, a member or former member of the armed forces is required to raise such a claim before the appropriate correction board before seeking judicial review. In the correction boards the applicant must clearly state the

[1] The term "correction boards" is used throughout this document to refer to the boards convened on behalf of the Secretaries of the military departments and the Secretary of Homeland Security pursuant to 10 U.S.C. § 1552.

relief sought and bears the burden to establish an error or injustice justifying relief. The bill makes clear that the petitioner must identify to the correction board how the procedural error substantially prejudiced his or her right to the relief requested.

Subsection 1560(d) raises the jurisprudential concept of nonjusticiability to the level of a jurisdictional bar. It is intended to preserve the current nonjusticiable status of certain issues that might come before an internal correction board, but are nonetheless precluded from judicial review.

Subsection 1560(e) specifically requires that a claimant use the remedies available through sections 1034 and 1552 before seeking judicial review under section 1560. The exhaustion requirement is satisfied only when the Secretary has reached and rendered a final decision. This requires any complaint raising issues, in whole or in part, which may be considered by the correction boards for full or partial relief be first submitted to the appropriate correction board. It specifically requires that claimants pursue the administrative remedies available through the correction board before seeking judicial review of an administrative personnel decision. This language is intended to satisfy the requirements of *Darby v. Cisneros*, 509 U.S. 137 (1993), which held that courts do not have the authority to require administrative exhaustion as a prerequisite for judicial review under the Administrative Procedure Act, unless specifically mandated by statute or agency rules. The exhaustion requirement here is satisfied only when the Secretary concerned has reached and rendered a final decision. Requiring a final decision and the exhaustion of administrative remedies is designed to facilitate the production of a decisional record adequate for meaningful judicial review.

The focus that this bill places on the administrative process does not come at the price of reduced protections for military members or veterans. The statutory charter of the boards creates equitable bodies which are authorized to act when necessary to further the interests of justice. They are not limited, as is the judiciary, to simply ensuring compliance with the law. Moreover, as the boards are comprised of members of the executive department and act on behalf of the service secretaries, they are authorized and competent to address the substantive aspects of issues which are not justiciable. In the vast majority of cases, the probability that a claimant will obtain relief from an equitable board exceeds the likelihood of a successful challenge in court. This bill does nothing to diminish the probability that an individual claimant will obtain relief. It simply directs members and former members of the armed forces to the administrative forum, a correction board, that is best suited to resolve their grievance and clarifies the procedures for obtaining judicial review of any adverse administrative decisions. In so doing, it is fully consistent with the general trend towards alternative dispute resolution. It provides a clear roadmap for service members, so that they may fully be afforded the fullness of administrative and judicial review to best ensure their rights. There is currently much confusion about where a service member can seek such relief. They can go to a correction board, to a district court, or to the Court of Federal Claims. By requiring a service member to first seek relief at a correction board, it benefits the service member by providing a non-adversarial forum that does not require an attorney. Additionally, this forum will create an administrative record that will assist a federal court if the service member seeks judicial review of the correction board decision.

Subsection 1560(f) provides the statute of limitations for judicial review. This section grandfathers those individuals who received a final decision prior to the date of enactment. This is intended to generously protect the rights of service members who receive a final response prior to the enactment of the legislation. For final decisions made prior to the date of enactment, a claimant has the same period of time as exists under current law. For final decisions made on or after the date of enactment, the claimant has one year to file a petition for review. This one year to file is ensured by having the act become effective one year after enactment. The one year period of limitation, articulated in subsection (e), was incorporated because it encourages timely challenges, thereby aiding in the accurate and just resolution of issues involving military records. Because the reviewing court would not be conducting a *de novo* trial, but instead would be reviewing an administrative record under the standard set out in subsection 1560(b), the one year period should provide the claimant ample time to assess the desirability of filing a petition and take the necessary steps to exercise that right. By way of reference, it exceeds the 60 days provided to civilian employees for judicial review under the Civil Service Reform Act, 5 U.S.C. § 7703(b)(1).

Subsection (g)(1) provides that a decision by the correction board not to waive the three-year filing period established by subsection 1552(b) is not subject to review by a court.

Subsection (g)(2) provides that a decision by the correction board denying a request for reconsideration of a previous decision of a correction board is not subject to review by a court.

Beyond the one year limit in subsection 1560(f), subsection (g)(3) provides a limit on the judicial reviewability of correction board decisions where the correction board has waived its three-year statute of limitations set forth in section 1552(b). Only denials of petitions that are received by the board within six years of the date of discharge, retirement, release from active duty, or death while on active duty of the person whose records are the subject of the records correction request are subject to judicial review. This preserves the rule in the U.S. Court of Federal Claims that tolls the statute of limitations six years from the date of discharge, retirement, or release from active duty. See Martinez v. United States, 333 F.3d 1295 (2003) (en banc), cert. denied, 124 S. Ct. 1404 (2004). This rule will now be extended to all courts. The statute of limitations for a correction board is three years from the discovery of the error or injustice. This statute of limitations can be excused by a correction board when it finds it to be in the interest of justice. See section 1552 (b). Subsection (g)(3) will allow for judicial review of some cases where the board has waived its statute of limitations, up to three additional years, but not more than six years from the date of discharge, retirement, release from active duty, or death while on active duty of the person whose records are the subject of the records correction request. The correction board is free to exercise its equitable powers to review even older cases, but such decisions will not be subject to judicial review.

Subsection (h)(1) limits the jurisdiction of courts concerning any correction of records "cognizable" under sections 1034(f) and (g) and section 1552 to that which is provided by section 1560.

Subsection (h)(2) circumscribes the jurisdictions of courts in cases involving actions relating to military service, subject to the requirements of subsection 1560 or title 10, while leaving intact the court's existing jurisdiction over petitions for writ of habeas corpus. The purpose of this subsection is to limit the jurisdiction of the courts to entertain challenges involving matters for which review is available under sections 1034(f) or (g) and 1552 of title 10, until such time as review has been secured under those sections. This limitation concerns causes of action arising on or after the date of enactment. This time period was included so as not to impose an exhaustion of remedies requirement on cases arising before the date, so as to leave settled the applicability of Martinez v. Gonzalez to such cases. See Martinez v. United States, 333 F.3d 1295 (2003) (en banc), cert. denied, 124 S. Ct. 1404 (2004).

Subsection (d):

Subsection (d) makes the amendments made by this proposal effective one year after enactment. Its provisions are applicable to all decisions of the correction boards, whether they were rendered before or after the effective date. In other words, the proposal has retroactive effect on those decisions which have been rendered but for which judicial review has not been sought as of the effective date of the proposal. It was determined that the clarity that the proposal intended would be lost, if only temporarily, if we incorporated a complex implementation scheme. With regard to those cases decided before the effective date of the legislation which did not include a concise factual and legal basis for the board's decision, it is intended that the reviewing courts would remand the cases back to the boards for further consideration in accordance with the provisions of this law.

Budget Implications: Requiring an exhaustion of administrative remedies makes more efficient use of government resources and increases the chances of a resolution without the need for resource-consuming litigation. The relatively small number of additional cases brought to a correction board will not increase personnel requirements and will be offset by the lesser number of cases directly filing complaints in federal courts.

Changes to Existing Law: This proposal would make the following changes to title 10, United States Code:

§ 1034. Protected communications; prohibition of retaliatory personnel actions

(a) Restricting Communications With Members of Congress and Inspector General Prohibited.—

(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

(2) Paragraph (1) does not apply to a communication that is unlawful.

(b) Prohibition of Retaliatory Personnel Actions.—

(1) No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing—

(A) a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted; or

(B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—

(i) a Member of Congress;

(ii) an Inspector General (as defined in subsection (i)) or any other Inspector General appointed under the Inspector General Act of 1978;

(iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization;

(iv) any person or organization in the chain of command; or

(v) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications.

(2) Any action prohibited by paragraph (1) (including the threat to take any action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

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(f) Correction of Records When Prohibited Action Taken.—

(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

(2) In resolving an application described in paragraph (1), a correction board—

(A) shall review the report of the Inspector General submitted under subsection (e)(1);

(B) may request the Inspector General to gather further evidence; and

(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragraph (1)—

(A) may be provided with representation by a judge advocate if—

(i) the Inspector General, in the report under subsection (e)(1), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) the member is not represented by outside counsel chosen by the member; and

(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the

investigatory record of the Inspector General but not included in the report submitted under subsection (e)(1).

(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

(7) In any case in which the final decision of the Secretary concerned results in denial, in whole or in part, of any requested correction of the member or former member's record, the member or former member shall be provided a concise written statement of the factual and legal basis for the decision, together with a statement of the procedure and time for obtaining review of the decision pursuant to section 1560 of this title.

(g) Review by Secretary of Defense.—

(1) Upon the completion of all administrative review under subsection (f), the member or former member of the armed forces (except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

(2) A submittal to the Secretary of Defense under paragraph (1) must be made within 90 days of the receipt of the final decision of the Secretary of the military department concerned in the matter. In any case in which the final decision of the Secretary of Defense results in denial, in whole or in part, of any requested correction of the member or former member's record, the member or former member shall be provided a concise written statement of the basis for the decision, together with a statement of the procedure and time for obtaining review of the decision pursuant to section 1560 of this title.

(h) Judicial Review.—A decision of the Secretary of Defense under subsection (g) or, in a case in which review by the Secretary of Defense under subsection (g) was not sought or in a case arising out of the Coast Guard when the Coast Guard is not operating as a service in the Navy, a decision of the Secretary of a military department or the Secretary of Homeland Security under subsection (f) shall be subject to judicial review only as provided in section 1560 of this title.

~~(h)~~(i)Regulations.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

~~(i)~~(j) Definitions.—In this section:

(1) The term "Member of Congress" includes any Delegate or Resident Commissioner to Congress.

(2) The term "Inspector General" means any of the following:

(A) The Inspector General of the Department of Defense.

(B) The Inspector General of the Department of Homeland Security, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(C) Any officer of the armed forces or employee of the Department of Defense who is assigned or detailed to serve as an Inspector General at any level in the Department of Defense.

(3) The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

*** * * * * * * * ***

§ 1552. Correction of military records: claims incident thereto

(a)(1) The Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Homeland Security may in the same manner correct any military record of the Coast Guard.

(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

(3) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

(4) Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(b) No correction may be made under subsection (a)(1) unless the claimant or his heir or legal representative files a request for the correction within three years after he discovers the error or injustice. However, a board established under subsection (a)(1) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c) The Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, or on account of his or another's service as a civilian employee. If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid—

(1) to the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(2) if there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(3) as otherwise prescribed by the law applicable to that kind of payment.

A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under subsection (a) may extend only to—

(1) correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)); or

(2) action on the sentence of a court-martial for purposes of clemency.

(g) In this section, the term "military record" means a document or other record that pertains to

(1) an individual member or former member of the armed forces, or

(2) at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or

former spouse of any such person. Such term does not include records pertaining to civilian employment matters (such as matters covered by title 5 and chapters 81, 83, 87, 108, 373, 605, 607, 643, and 873 of this title).

(h) In any case in which the final decision of the Secretary concerned results in denial, in whole or in part, of any requested correction, the claimant shall be provided a concise written statement of the factual and legal basis for the decision, together with a statement of the procedure and time for obtaining review of the decision pursuant to section 1560 of this title.

(i) A decision by the Secretary concerned under this section shall be subject to judicial review only as provided in section 1560 of this title.

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§ 1560. Judicial review of decisions

(a) After a final decision is issued pursuant to section 1552 of this title, or is issued by the Secretary of Homeland Security or the Secretary of Defense pursuant to subsections 1034(f) or 1034(g) of this title, any person aggrieved by such a decision may obtain judicial review.

(b) In exercising its authority under this section, the reviewing court shall review the record and may hold unlawful and set aside any decision demonstrated by the petitioner in the record to be—

(1) arbitrary or capricious;

(2) not based on substantial evidence;

(3) a result of material error of fact or material administrative error, but only if the petitioner identified to the correction board how the failure to follow such procedures substantially prejudiced the petitioner's right to relief, and shows to the reviewing court by a preponderance of the evidence that the error was harmful; or

(4) otherwise contrary to law

(c) Upon such review, the reviewing court shall affirm, modify, vacate, or reverse the decision, or remand the matter as appropriate.

(d) Notwithstanding subsections (a), (b), and (c), the reviewing court does not have jurisdiction to entertain any matter or issue raised in a petition of review that is not justiciable.

(e) No review may be made under this section unless the petitioner shall first have requested a correction under section 1552 of this title, and the Secretary concerned shall have rendered a final decision denying that correction in whole or in part. In a case in which the final decision of the Secretary concerned is subject to review by the Secretary of Defense under

section 1034(g) of this title, the petitioner is not required to seek such review by the Secretary of Defense before obtaining judicial review under this section. If the petitioner seeks review by the Secretary of Defense under section 1034(g) of this title, no judicial review may be made until the Secretary of Defense shall have rendered a final decision denying that request in whole or in part.

(f) In the case of a final decision of the Secretary described in subsection (a) made on or after the date of the enactment of this section, a petition for judicial review under this section must be filed within one year after the date of that final decision.

(g)(1) A decision by a board established under section 1552(a)(1) of this title declining to excuse the untimely filing of a request for correction of military records is not subject to judicial review under this section or otherwise subject to review in any court.

(2) A decision by a board established under section 1552(a)(1) of this title declining to reconsider or reopen a previous denial or partial denial of a request for correction of military records is not subject to judicial review under this section or otherwise subject to review in any court.

(3) Notwithstanding subsection (f), a decision by a board established under section 1552(a)(2) of this title that results in denial, in whole or in part, of any request for correction of military records that is received by the board more than six years after the date of discharge, retirement, release from active duty, or death while on active duty, of the person whose military records are the subject of the correction request is not subject to judicial review under this section or otherwise subject to review in any court..

(h)(1) In the case of a cause of action arising after the date of the enactment of this section, no court shall have jurisdiction to entertain any request for correction of records cognizable under section 1034(f) and (g) or section 1552 of this title except as provided in this section.

(2) In the case of a cause of action arising after the date of the enactment of this section, except as provided by chapter 153 of title 28 and chapter 79 of this title, no court shall have jurisdiction over any civil action or claim seeking, in whole or in part, to challenge any decision for which administrative review is available under section 1552 of this title.

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Subtitle E—Other Matters

Section 541 would authorize the Secretary of Defense to allow a broadening of potential representatives among the membership of the Department of Defense (DoD) Military Family Readiness Council (MFRC) to include membership categories for a military member or a spouse or parent of a military member not previously covered by section 1781a of title 10, United States Code.

This proposal would allow the Secretary of Defense more flexibility in soliciting members to represent each of the Services, as well as ensure achieving balanced viewpoints as required by the Federal Advisory Committee Act and DoD requirements.

Additionally, this proposal would authorize terms for membership on the MFRC to be reduced to two years, rather than three, which would allow greater rotation among the members for broader viewpoints, as well as increases the willingness of potential members to commit to the responsibility of serving on the MFRC.

Budget Implications: Given the increase in membership and responsibilities, including additional travel related to site visits and program reviews to complete the broadened tasks of the Council, the Department anticipates that the budget would increase accordingly. The MFRC budget increases are projected to be 2 percent for inflation across the Program Objective Memorandum (POM) years.

RESOURCE REQUIREMENT ($MILLION) REFLECTED IN PRESIDENT'S BUDGET								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
OM-DW	$2.00	$2.04	$2.08	$2.12	$2.16	O&M	BA04	4G-4GTJ
Total	$2.00	$2.04	$2.08	$2.12	$2.16			

NUMBER OF PERSONNEL AFFECTED								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0			
Navy	0	0	0	0	0			
Marine Corps	0	0	0	0	0			
Air Force	0	0	0	0	0			
Total	0	0	0	0	0			

Changes to Existing Law: This proposal would amend section 1781a of title 10, United States Code, as follows:

§ 1781a. Department of Defense Military Family Readiness Council

(a) IN GENERAL.—There is in the Department of Defense the Department of Defense Military Family Readiness Council (in this section referred to as the "Council").

~~(b) MEMBERS. (1) The Council shall consist of the following members:~~

~~(A) The Under Secretary of Defense for Personnel and Readiness or designee, who shall serve as chair of the Council.~~

~~(B) One representative of each of the Army, Navy, Marine Corps, and Air Force, who shall be appointed by the Secretary of Defense.~~

~~(C) In addition to the representatives appointed under subparagraph (B)—~~

~~(i) one representative from the Army National Guard or Air National Guard, who shall be appointed by the Secretary of Defense; and~~

~~(ii) one representative from the Army Reserve, Navy Reserve, Marine Corps Reserve, or Air Force Reserve, who shall be appointed by the Secretary of Defense.~~

~~(D) Three individuals appointed by the Secretary of Defense from among representatives of military family organizations, including military family organizations of families of members of the regular components and of families of members of the reserve components.~~

~~(E) In addition to the representatives appointed under subparagraphs (B) and (C), the senior enlisted advisors of the Army, Navy, Marine Corps, and Air Force, or the spouse of a senior enlisted member from each of the Army, Navy, Marine Corps, and Air Force.~~

~~(2) The term on the Council of the members appointed under subparagraphs (C) and (D) of paragraph (1) shall be three years. Representation on the Council required by clause (i) of paragraph (1)(C) shall rotate between the Army National Guard and Air National Guard. Representation required by clause (ii) of such paragraph shall rotate among the reserve components specified in such clause.~~

(b) MEMBERS.—(1) The Council shall consist of 17 members, as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, who shall serve as chair of the Council and who may designate a representative to chair the council in the Under Secretary's absence.

(B) The following, who shall be appointed or designated by the Secretary of Defense:

(i) One representative of each of the Army, Navy, Marine Corps, and Air Force, each of whom may be a member of the armed force to be represented, the spouse of such a member, or the parent of such a member, and may represent either the active component or a reserve component of that armed force.

(ii) One representative of the Army National Guard or the Air National Guard, who may be a member of the National Guard, the spouse of such a member, or the parent of such a member.

(iii) One spouse of a member of each of the Army, Navy, Marine Corps, and Air Force, two of whom shall be the spouse of an active component member and two of whom shall be the spouse of a reserve component member.

(C) Three individuals appointed by the Secretary of Defense from among representatives of military family organizations, including military family organizations of families of members of the regular components and of families of members of the reserve components.

(D) The senior enlisted advisor, or the spouse of a senior enlisted member, from each of the Army, Navy, Marine Corps, and Air Force.

(2)(A) The term on the Council of the members appointed or designated under clauses (i) and (iii) of subparagraph (B) of paragraph (1) shall be two years and may be renewed by the Secretary of Defense. Representation on the Council under clause (ii) of that subparagraph shall rotate between the Army National Guard and Air National Guard every two years on a calendar year basis.

(B) The term on the Council of the members appointed under subparagraph (C) of paragraph (1) shall be three years.

(c) MEETINGS.—The Council shall meet not less often than twice each year.

(d) DUTIES.—The duties of the Council shall include the following:

(1) To review and make recommendations to the Secretary of Defense regarding the policy and plans required under section 1781b of this title.

(2) To monitor requirements for the support of military family readiness by the Department of Defense.

(3) To evaluate and assess the effectiveness of the military family readiness programs and activities of the Department of Defense.

(e) ANNUAL REPORTS.—(1) Not later than February 1 each year, the Council shall submit to the Secretary of Defense and the congressional defense committees a report on military family readiness.

(2) Each report under this subsection shall include the following:

(A) An assessment of the adequacy and effectiveness of the military family readiness programs and activities of the Department of Defense during the preceding fiscal year in meeting the needs and requirements of military families.

(B) Recommendations on actions to be taken to improve the capability of the military family readiness programs and activities of the Department of Defense to meet the needs and requirements of military families, including actions relating to the allocation of funding and other resources to and among such programs and activities.

Section 542. Section 711 of the Consolidated Natural Resources Act of 2008 (Public Law 110-229, 122 Stat.754, 48 U.S.C. 1751) provided a Delegate to the United States House of Representatives from the Commonwealth of the Northern Mariana Islands. Citizens of the Commonwealth elect this Delegate during Federal general elections.

This proposal would treat the Commonwealth of the Northern Mariana Islands as a "State" for purposes of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and, thus, would permit absent uniformed services voters and overseas voters from the Northern Mariana Islands to use absentee registration procedures and to vote in general, special, primary, and runoff elections for the Federal office of Delegate to the House of Representatives in the

same manner as provided for voters from the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

Under the provisions of the UOCAVA, uniformed servicemembers, members of the Merchant Marine, commissioned members of the National Oceanic and Atmospheric Administration and the Public Health Service, their voting-age dependents, and U.S. citizens residing abroad are permitted to vote by absentee ballot in Federal elections in their State of residence. UOCAVA does not currently include the Commonwealth of the Northern Mariana Islands in the definition of "State" and, therefore, excludes UOCAVA voters from the Commonwealth in the absentee voting process for Federal office. Treatment of the Commonwealth as a "State" for purposes of UOCAVA would permit absent uniformed services and overseas citizen voters from the Commonwealth to vote for the Delegate under the provisions of UOCAVA.

Budget Implications: This proposal would not impact the Department of Defense's budget. This proposal would permit absent uniformed services voters and overseas voters from the Northern Mariana Islands to use absentee registration procedures and to vote in general, special, primary, and runoff elections for the Federal office of Delegate to the House of Representatives.

Changes to Existing Law: This proposal would make the following changes to section 107 of the Uniformed and Overseas Citizens Absentee Voting Act:

SEC. 107. DEFINITIONS.

As used in this title, the term—

(1) "absent uniformed services voter" means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

* * * * * * *

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, ~~and~~ American Samoa, and the Commonwealth of the Northern Mariana Islands;

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) "United States", where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, ~~and~~ American Samoa, and the Commonwealth of the Northern Mariana Islands.

Section 543 would specify the applicable period for a request for an absentee ballot submitted by an overseas voter covered under the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA). Under the provisions of the UOCAVA, members of the uniformed service and Merchant Marine, the voting-age dependents of such members, and U.S. citizens residing abroad are permitted to vote by absentee ballot in Federal elections in their State of residence

UOCAVA requires States to provide absentee ballots to uniformed service voters (and overseas voters?) for all elections held in the year in which the request was received, but does not currently specify the period of time that such request for absentee ballots received from overseas citizens is applicable. The Department of Defense believes that this omission was an oversight in the most recent changes to UOCAVA in the Military and Overseas Voter Empowerment Act (subtitle H of title V of Public Law 111-84). By adding the phrase, "or overseas voter," the duration of the request for absentee ballots would be the same for both absent uniformed services voters and overseas citizen voters.

Budget Implications: This proposal merely provides consistency in the absentee ballot request period valid for both uniformed service and overseas citizen voters. It has no impact on the Defense budget.

Changes to Existing Law: This proposal would make the following changes to section 104 of the Uniformed and Overseas Citizens Absentee Voting Act, as amended:

SEC. 104. PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter or overseas voter during a calendar year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Section 601 would extend for one year, through December 31, 2012, critical recruiting and retention incentive programs for the Reserve components. Absent these incentives, the Reserve components may experience more difficulty in meeting skilled manning and strength

requirements. The Reserve components rely heavily on their ability to recruit individuals with prior military service; approximately half of all accessions are former Service members or members who are separating from active duty. This is a high-priority recruiting market for the Reserve components because accessing individuals with prior military experience reduces training costs and retains a valuable, trained military asset. The Selected Reserve affiliation bonus and the prior service enlistment bonus provide important incentives to individuals with prior military service to serve in the Reserve components.

The special pay for enlisted members assigned to high priority units is an even more focused incentive because it specifically targets manning in units that have historically been understaffed. The Selected Reserve reenlistment bonus is necessary to help the Reserve components maintain required manning levels in skill areas with critical shortages by retaining members who currently are serving in the Selected Reserve. Extending the Ready Reserve enlistment and reenlistment bonus authorities would allow the Reserve components to target these bonuses at individuals who possess skills that are under-subscribed, but are critical in the event of mobilization.

This proposal would extend for one year, until December 31, 2012, accession and retention incentives for certain nurses, psychologists, and medical, dental and pharmacy officers. Experience shows that manning levels in these health care professional fields would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and development of replacements. The Department of Defense and Congress have long recognized the prudence of these incentives in supporting effective personnel levels within these specialized fields.

This proposal also would extend two critical recruitment and retention incentive programs for Reserve component health care professionals. The Reserve components historically have found it challenging to meet the required manning in the health care professions. The incentive that targets health care professionals who possess a critically short skill is essential to meet required manning levels. In addition, the health professions loan repayment program has proven to be one of our most powerful recruiting tools for attracting young health professionals trained in specialty areas that are critically short in the Selected Reserve. Extending this authority is critical to the continued success of recruiting young, skilled health professionals into the Selected Reserve. Finally, this section would extend the consolidated special and incentive pay authorities in section 335 of title 37, United States Code (Special Bonus and Incentive Pay Authorities for Officers in Health Professions), to which the Department is in the process of transitioning.

This proposal would extend for one year, through December 31, 2012, accession and retention incentives for nuclear-qualified officers. These incentives enable Navy to attract and retain the qualified personnel required to maintain the operational readiness and unparalleled safety record of the nuclear-powered submarines and aircraft carriers which comprise over 40% of the combatant fleet. Due to extremely high training costs and regulatory requirements for experienced supervisors, these incentives provide the surest and most cost-effective means to maintain the required quantity and quality of these officers.

The nuclear officer incentive pay (NOIP) program is structured to provide career-long retention of officers in whom the Navy has made a considerable training investment and who have continually demonstrated superior technical and management ability. The scope of the program is limited to the number of officers required to fill critical nuclear supervisory billets and eligibility is strictly limited to those officers who continue to meet competitive career milestones. The technical, leadership, and management expertise developed in the Naval Nuclear Propulsion Program (NNPP) is highly valued in the civilian workforce, which makes the retention of these officers a continuing challenge.

The NNPP retention challenge has contributed to Navy's current shortage of control grade officers (Captains, Commanders, and Lieutenant Commanders) and is the cause of the submarine community's current shortfall of 431 control grade officers. The Navy expects to achieve its submarine officer retention target for FY10 for the second time in four years. Additionally, the nuclear-trained surface warfare community continues to experience the lowest junior officer retention of any Unrestricted Line (URL) community. The Navy expects to meet its FY10 retention goal for nuclear-trained surface warfare officers. NOIP is the primary financial retention incentive for the highly skilled officers in these communities.

This proposal would extend for one year, through December 31, 2012, accession, conversion, and retention bonuses for uniformed personnel possessing or acquiring critical skills or assigned to high priority units. This includes arduous occupations, as well as those that require extremely high training and replacement costs. This section also would extend incentive pay for members in designated assignments and the bonus for transfers between the Armed Forces. It would also extend certain of the consolidated special and incentive pay authorities added to subchapter II of chapter 5 of title 37, United States Code, by the National Defense Authorization Act for Fiscal Year (FY) 2008, to which the Department will transition over the next 10 years. Experience shows that retention of members in critical skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing replacements. The Department of Defense and the Congress long have recognized the cost-effectiveness of financial incentives in supporting effective staffing in such critical military skills, assignments, and high priority units.

This proposal would extend for one year, through December 31, 2012, two referral bonuses. The statutory authorities for these referral bonuses provide the Secretary of Defense a flexible management tool with which to target critical skills. For example, the Army referral bonus allows the Secretary to pay a bonus to eligible individuals who refer a person who has never before served in an armed force to an Army recruiter, with payment of the bonus contingent upon the enlistment of the referred individual. Since its conception the referral program has generated over 60,000 referrals and close to 12,000 enlistment contracts. It has been highly effective at integrating the entire Army into the recruiting process.

ONE-YEAR EXTENSION AUTHORITIES FOR RESERVE FORCES:

Budget Implications: This section would merely extend for another year critical recruiting and retention incentive programs the Department of Defense funds each year. The military departments already have projected expenditures of $608.8 million each year from fiscal year (FY) 2012 through 2016 for these incentives in their budget proposals, to be funded from the Reserve Component, Military Personnel accounts. However, the cost for the extension of the income replacement provision is not budgeted by the military departments because the cost is directly tied to service for a contingency operation; thus, it will be funded by Overseas Contingency Operations funds.

NUMBER OF PERSONNEL AFFECTED								
	FY 2012	**FY 2013**	**FY 2015**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
ARNG	38,500	38,500	38,500	38,500	38,500	National Guard Personnel, Army	01	90
USAR	29,351	29,351	29,351	29,351	29,351	Reserve Personnel, Army	01	90
USNR	4,974	4,974	4,974	4,974	4,974	Reserve Personnel, Navy	01	90
USMCR	1,900	1,900	1,900	1,900	1,900	Reserve Personnel, Marine Corps	01	90
ANG	27,434	27,434	27,434	27,434	27,434	National Guard Personnel, Air Force	01	90
USAFR	19,100	19,100	19,100	19,100	19,100	Reserve Personnel, Air Force	01	90
Army	0	0	0	0	0			
Total	121,259	121,259	121,259	121,259	121,259			

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
ARNG	$225	$225	$225	$225	$225	National Guard Personnel, Army	01	90
USAR	$228	$228	$228	$228	$228	Reserve Personnel, Army	01	90
USNR	$23	$23	$23	$23	$23	Reserve Personnel, Navy	01	90
USMCR	$3.6	$3.6	$3.6	$3.6	$3.6	Reserve Personnel, Marine Corps	01	90
ANG	$73	$73	$73	$73	$73	National Guard Personnel, Air Force	01	90
USAFR	$53.2	$53.2	$53.2	$53.2	$53.2	Reserve Personnel, Air Force	01	90
Army	$1.895	--	--	--	--	MILPERS, Army	6	212
Total	$601.7	$605.8	$605.8	$605.8	$605.8			

ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS:

Budget Implications: This section would merely extend for another year critical accession and retention incentive programs the military departments fund each year. The military departments already have projected expenditures for these incentives and programmed them via budget proposals. The military departments have projected expenditures of $170.1 million each year from fiscal year (FY) 2012 through 2016 for these incentives in their budget proposals, to be funded from the Military Personnel accounts.

NUMBER OF PERSONNEL AFFECTED									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Line Item**
Army*	634	634	634	634	634	634	MILPERS, Army	01	40 (for 01); 120
Army* Res	3,398	3,398	3,398	3,398	3,398	3,398	RESPERS, Army	01	120
Navy*	1,136	1,136	1,136	1,136	1,136	1,136	MILPERS, Navy;	01	40 (for 01); 120
Navy Res*	486	489	489	489	489	489	RESPERS, Navy	01	120
Marine Corps	0	0	0	0	0	0	N/A	N/A	N/A
Air* Force	3,023	3,023	3,023	3,023	3,023	3,023	MILPERS, AF	01	40 (for 01)
AF Res*	626	626	626	626	626	626	RESPERS, AF	01	120
Total	9,303	9,303	9,303	9,303	9,303	9,303			

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Line Item**
Army*	$14.5	$14.5	$14.5	$14.5	$14.5	$14.5	MILPERS, Army;	01	40 (for 01); 120
Army* Res	$57.7	$57.7	$57.7	$57.7	$57.7	$57.7	RESPERS, Army	01	120
Navy*	$18.1	$18.1	$18.1	$18.1	$18.1	$18.1	MILPERS, Navy;	01	40 (for 01); 120
Navy Res*	$9.6	$9.6	$9.6	$9.6	$9.6	$9.6	RESPERS, Navy	01	120
Marine Corps	$0	$0	$0	$0	$0	$0	N/A	N/A	N/A
Air* Force	$50.2	$50.2	$50.2	$50.2	$50.2	$50.2	MILPERS, Air Force	01	40 (for 01)
AF Res*	$20.0	$20.0	$20.0	$20.0	$20.0	$20.0	RESPERS, AF	01	120
Total	$170.1	$170.1	$170.1	$170.1	$170.1	$170.1			

ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS:

Budget Implications: This section would merely extend for another year the critical accession and retention incentive programs the Navy funds each year. The Navy has already projected expenditures for these incentives and programmed them into budget proposals. The Navy has projected expenditures of about $73 million each year, to be funded from their Military Personnel account, to account for new and renegotiated contracts to be executed each year from FY 2012 through 2016. The Army and Air Force are not authorized in the statute to pay these bonuses.

NUMBER OF PERSONNEL AFFECTED									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	0	0	0	0	0	0	N/A	N/A	N/A
Navy*	2,418	2,418	2,440	2,449	2,449	2,449	MILPERS, Navy	01, 02, 03	40 (for 01); 90 (for 02); 110 (for 03)
Marine Corps	0	0	0	0	0	0	N/A	N/A	N/A
Air Force	0	0	0	0	0	0	N/A	N/A	N/A
Total	2,418	2,418	2,440	2,449	2,449	2,449			

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Line Item**
Army	0	0	0	0	0	0	N/A	N/A	N/A
Navy*	$72.5	$72.5	$73.2	$73.2	$73.5	$73.5	MILPERS, Navy	01, 02, 03	40 (for 01); 90 (for 02); 110 (for 03)
Marine Corps	0	0	0	0	0	0	N/A	N/A	N/A
Air Force	0	0	0	0	0	0	N/A	N/A	N/A
Total	$72.5	$72.5	$73.2	$73.5	$73.5	$73.5			

*** Numbers reflect FY11 column of PB11 budget as FY12 and out have not been determined at this time.**

ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF REFERRAL BONUSES:

Budget Implications: This section would merely extend for another year these two referral bonuses. The Army is the only military department currently using a recruitment referral bonus and it has projected expenditures for the program via its budget proposal. Specifically, the Army reserve projects expenditures of $4.4 million each year from FY 2012 through FY 2017 for the

referral program, to be funded from the Reserve Personnel account. None of the services are currently using the health professions referral bonus.

NUMBER OF PERSONNEL AFFECTED									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Army* Reserve	2,849	2,849	2,849	2,849	2,849	2,849	RESPERS, Army	01	90
Navy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Marine Corps	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Air Force	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total	2,849	2,849	2,849	2,849	2,849	2,849			

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Line Item**
Army	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Army* Reserve	$4.4	$4.4	$4.4	$4.4	$4.4	$4.4	RESPERS, Army		
Navy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Marine Corps	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Air Force	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total	$4.4	$4.4	$4.4	$4.4	$4.4	$4.4			

*** Numbers reflect FY11 column of PB11 budget as FY12 and out have not been determined at this time.**

ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAY:

Budget Implications: This section would merely extend for another year critical recruiting and retention incentive programs the military departments fund each year. The military departments already have projected expenditures for these incentives and programmed them via budget proposals. Specifically, the military departments have projected expenditures of $2.555 billion each year from FY 2012 through FY 2017 for these incentives in their budget proposals, to be funded from the Military Personnel accounts.

NUMBER OF PERSONNEL AFFECTED									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Line Item**
Army*	210,745	210,745	210,745	210,745	210,745	210,745	MILPERS, Army	01, 02	35 and 40 (for 01), 85 and 90 (for 02)
Navy*	103,458	103,458	103,458	103,458	103,458	103,458	MILPERS, Navy	01, 02	35 and 40 (for 01); 85 and 90 (for 02)
Marine* Corps	51,171	51,171	51,171	51,171	51,171	51,171	MILPERS, Marine Corps	01, 02	35 and 40 (for 01); 85 and 90 (for 02)
Air* Force	109,271	109,271	109,271	109,271	109,271	109,271	MILPERS, Air Force	01, 02	35 and 40 (for 01); 85 and 90 (for 02)
Total	474,645	474,645	474,645	474,645	474,645	474,645			

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Line Item**
Army*	$1,053.7	$1,053.7	$1,053.7	$1,053.7	$1,053.7	$1,053.7	MILPERS, Army	01, 02	35 and 40 (for 01), 85 and 90 (for 02)
Navy*	$567.6	$567.6	$567.6	$567.6	$567.6	$567.6	MILPERS, Navy	01, 02	35 and 40 (for 01); 85 and 90 (for 02)
Marine* Corps	$335.6	$335.6	$335.6	$335.6	$335.6	$335.6	MILPERS, Marine Corps	01, 02	35 and 40 (for 01); 85 and 90 (for 02)
Air* Force	$598.3	$598.3	$598.3	$598.3	$598.3	$598.3	MILPERS, Air Force	01, 02	35 and 40 (for 01); 85 and 90 (for 02)
Total	$2,555.2	$2,555.2	$2,555.2	$2,555.2	$2,555.2	$2,555.2			

*** Numbers reflect FY11 column of PB11 budget as FY12 and out have not been determined at this time.**

Note: Numbers reflect initial payments for enlistment and reenlistment bonuses corresponding to personnel affected.

Changes to Existing Laws: This proposal would make the following changes to sections in title 10 and title 37, United States Code:

TITLE 10, UNITED STATES CODE

§ 1030. Bonus to encourage Department of Defense personnel to refer persons for appointment as officers to serve in health professions

* * * * * * *

(i) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 2130a. Financial assistance: nurse officer candidates

(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2011~~ December 31, 2012, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $20,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $10,000.

(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution by the Secretary selecting the person. The continuation bonus may be paid for not more than 24 months.

* * * * * * *

§ 3252. Bonus to encourage Army personnel to refer persons for enlistment in the Army

* * * * * * *

(h) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages

* * * * * * *

(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer before ~~December 31, 2011~~ December 31, 2012.

———

TITLE 37, UNITED STATES CODE

§ 301b. Special pay: aviation career officers extending period of active duty

(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on ~~December 31, 2011~~December 31, 2012, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

* * * * * * *

§ 302c-1. Special pay: accession and retention bonuses for psychologists

* * * * * * *

(f) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (b) may be entered into after ~~December 31, 2011~~ December 31, 2012.

§ 302d. Special pay: accession bonus for registered nurses

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2011~~ December 31, 2012, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than three years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(2) The amount of an accession bonus under paragraph (1) may not exceed $30,000.

* * * * * * *

§ 302e. Special pay: nurse anesthetists

(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b)(1) who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2011~~ December 31, 2012, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $50,000 for any 12-month period.

(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the period of obligated service provided for in the agreement under that paragraph.

* * * * * * *

§ 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties

* * * * * * *

(e) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~ December 31, 2012.

§ 302h. Special pay: accession bonus for dental officers

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a graduate of an accredited dental school and who, during the period beginning on September 23, 1996, and ending on ~~December 31, 2011~~ December 31, 2012, executes a written agreement described in subsection (c) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(2) The amount of an accession bonus under paragraph (1) may not exceed $200,000.

* * * * * * *

§ 302j. Special pay: accession bonus for pharmacy officers

(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited pharmacy school and who, during the period beginning on October 30, 2000, and ending on ~~December 31, 2011~~ December 31, 2012, executes a written agreement described in subsection (d) to accept a commission as an officer of a uniformed service and remain on active duty for a period of not less than 4 years may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

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§ 302k. Special pay: accession bonus for medical officers in critically short wartime specialties

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(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~ December 31, 2012.

§ 302l. Special pay: accession bonus for dental specialist officers in critically short wartime specialties

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(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~ December 31, 2012.

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§ 307a. Special pay: assignment incentive pay

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(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~December 31, 2012.

§ 308. Special pay: reenlistment bonus

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(g) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty reenlistment, in the armed forces entered into after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 308b. Special pay: reenlistment bonus for members of the Selected Reserve

* * * * * * *

(g) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any enlisted member who, after ~~December 31, 2011~~December 31, 2012, reenlists or voluntarily extends his enlistment in a reserve component.

* * * * * * *

§ 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

* * * * * * *

(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after ~~December 31, 2011~~ December 31, 2012.

§ 308d. Special pay: members of the Selected Reserve assigned to certain high priority units

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(c) Additional compensation may not be paid under this section for inactive duty performed after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve

* * * * * * *

(f) A bonus may not be paid under this section to any person for an enlistment—

(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

(2) after ~~December 31, 2011~~December 31, 2012.

§ 308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

* * * * * * *

(e) TERMINATION OF AUTHORITY.—A bonus may not be paid under this section to any person for a reenlistment, enlistment, or voluntary extension of an enlistment after ~~December 31, 2011~~December 31, 2011.

§ 308i. Special pay: prior service enlistment bonus

* * * * * * *

(f) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any person for an enlistment after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 309. Special pay: enlistment bonus

* * * * * * *

(e) DURATION OF AUTHORITY.—No bonus shall be paid under this section with respect to any enlistment in the armed forces made after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 312. Special pay: nuclear-qualified officers extending period of active duty

* * * * * * *

(f) DURATION OF AUTHORITY.—The provisions of this section shall be effective only in the case of officers who, on or before ~~December 31, 2011~~December 31, 2012 execute the required written agreement to remain in active service.

* * * * * * *

§ 312b. Special pay: nuclear career accession bonus

* * * * * * *

(c) The provisions of this section shall be effective only in the case of officers who, on or before ~~December 31, 2011~~December 31, 2012, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

§ 312c. Special pay: nuclear career annual incentive bonus

* * * * * * *

(d) For the purposes of this section, a ''nuclear service year'' is any fiscal year beginning before ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 324. Special pay: accession bonus for new officers in critical skills

* * * * * * *

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage

* * * * * * *

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~December 31, 2012.

§ 327. Incentive bonus: transfer between armed forces

* * * * * * *

(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 330. Special pay: accession bonus for officer candidates

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(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2011~~December 31, 2012.

§ 331. General bonus authority for enlisted members

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(h) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~December 31, 2012.

§ 332. General bonus authority for officers

* * * * * * *

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~December 31, 2012.

§ 333. Special bonus and incentive pay authorities for nuclear officers

* * * * * * *

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~December 31, 2012.

§ 334. Special aviation incentive pay and bonus authorities for officers

* * * * * * *

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~December 31, 2012.

§ 335. Special bonus and incentive pay authorities for officers in health professions

* * * * * * *

(k) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~ December 31, 2012.

* * * * * * *

§ 351. Hazardous duty pay

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(i) TERMINATION OF AUTHORITY.—No hazardous duty pay under this section may be paid after ~~December 31, 2011~~December 31, 2012.

§ 352. Assignment pay or special duty pay

* * * * * * *

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~December 31, 2012.

§ 353. Skill incentive pay or proficiency bonus

* * * * * * *

(j) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2011~~December 31, 2012.

§ 355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units

* * * * * * *

(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any reenlistment, or voluntary extension of an enlistment, in the armed forces entered into after ~~December 31, 2011~~December 31, 2012, and no agreement under this section may be entered into after that date.

* * * * * * *

§ 403. Basic allowance for housing

* * * * * * *

(b)(7)(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 408a. Travel and transportation allowances: inactive duty training outside of normal commuting distances

* * * * * * *

(e) TERMINATION.—No reimbursement may be provided under this section for travel that occurs after ~~December 31, 2011~~December 31, 2012.

* * * * * * *

§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

* * * * * * *

(g) TERMINATION.—No payment shall be made to a member under this section for months beginning after ~~December 31, 2011~~December 31, 2012, unless the entitlement of the member to payments under this section is commenced on or before that date.

Section 602 would permit the Secretary of Defense to authorize command-sponsored dependents of uniformed members located in remote areas overseas where adequate medical care, including the provision of obstetrical anesthesia, is not available in their locality the opportunity to be transported to the nearest facility where the care may be provided. If air transportation of the dependent is otherwise required to obtain adequate medical attention in connection with obstetrical care, then the Secretary may also authorize the dependent to choose transportation to a Military Treatment Facility (MTF) that is able to provide appropriate obstetrical services nearest to the closest point of entry to the continental United States (CONUS) rather than to a medical facility outside the continental United States (OCONUS). This is similar to the expenses paid by the Secretary of State under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081) and the benefits provided to civilian Department of Defense (DoD) employees in remote areas abroad under 10 U.S.C. 1599b.

The proposal would clarify that the Secretary of Defense has the discretion to implement such authority through a change to the Joint Federal Travel Regulations, which would include a listing of the remote overseas locations. Under current law, a dependent of a uniformed member located outside the United States in need of medical treatment not locally available--including obstetrical care--will be furnished transportation to the nearest appropriate medical facility in which adequate medical care is available. For the majority, this is a short trip by car to the nearest MTF. However, for many pregnant dependents of uniformed members stationed in remote areas, and thus not stationed close to such a facility, this can mean a departure from the duty location by air (typically to Germany or Japan) at a minimum of four to six weeks prior to delivery, depending upon the health of the fetus or the pregnant spouse. Spouses may not be able to return to the assigned duty station until four to six weeks after the delivery, depending upon issues such as delivery convalescence, complications, obtaining immunizations, well-baby check-up, and time needed to obtain a passport for the infant. As the entire process can take three months or longer, command-sponsored dependents of uniformed members find themselves

cut off from their families. If transportation were clearly available to CONUS, more command-sponsored dependents of uniformed members in these remote areas would be able to spend this crucial time nearer family and friends, who can provide assistance and support in a time of medical need. Family members or friends may come to the CONUS MTF to provide support, or the dependent would be able to travel on to other locations in order to be with family or friends.

This authority would mirror that already available in the case of civilian employees and dependents located in very remote OCONUS areas. If those individuals are in need of obstetrical treatment and adequate facilities are not locally available, the Secretary may authorize their transportation to CONUS, if appropriate. *See* 10 U.S.C. 1599b (authorizing the Secretary of Defense to provide travel and expenses for civilian employees similar to what the Secretary of State provides employees under 22 U.S.C. 4081(5)); and Joint Travel Regulations (JTR), Chapter 5, paragraphs C5134 (Dependent Medical Travel and Transportation Allowances When an Employee is Assigned to a Foreign OCONUS PDS), C5136 (Medical Travel Administration), C5138 (Transportation), C5140 (Per Diem), C5144 (Sample Excess Cost Agreement), and C5146 (Attendants/Escorts).

Specifically, pursuant to 10 U.S.C. 1599b, the Secretary of Defense may authorize civilian employees and dependents to travel to CONUS for obstetrical treatment when adequate care is not locally available. *See* JTR paragraphs C5134-A ("When the Secretarial Process determines that local medical facilities (military or civilian) at a foreign OCONUS area . . . are not able to accommodate a dependent's needs, transportation to another location may be authorized for appropriate medical/dental care."); and paragraph C5138-B ("Limitation. An eligible dependent is authorized health care transportation from the foreign OCONUS PDS to the designated point and return to the PDS [post of duty]. . . . 1. Travel to Other Locations. The AO may authorize/approve health care transportation to a location other than the designated point, if the employee elects and executes an excess cost agreement. . . . 2. Obstetrical Patients. An obstetrical patient may elect to travel to a . . . CONUS/ non-foreign OCONUS area, with transportation at Gov't expense authorized to the nearest CONUS POE [port of embarkation] . . ."). These provisions are similar to the Secretary of State's authority under 22 U.S.C. 4081(5). The proposal would provide the Secretary of Defense with the discretion, as with pregnant civilian employees and dependents, to permit uniformed members' dependent family members to travel with the spouse if the family members are incapable of self-care at the PDS and no suitable care arrangements can be made there. *See* JTR paragraph C5134-B3.

Budget Implications:
Cost of implementation: Proposed 10 U.S.C. 1040(a)(2)(D) provides that "[t]he total cost incurred by the United States for the provision of transportation and expenses (including per diem) with respect to a dependent by reason of this paragraph may not exceed the cost the United States would otherwise incur for the provision of transportation and expenses with respect to that dependent under paragraph (1) if the transportation and expenses were provided to that dependent without regard to this paragraph." Accordingly there would be no additional costs to the United States to implement this provision.

Number of beneficiaries potentially affected. We estimate that this proposal would affect approximately 120 beneficiaries.

In the European Theater, the total number of patients who might have been affected by this legislative change at Landstuhl Regional Medical Center (LRMC) for the past three years include 25 in 2006, 58 in 2007, and 55 in 2008. Putting those numbers in context, there were approximately 1,050 deliveries at LRMC in 2007 and 1,100 in 2008; as a result, remote site patients accounted for less than 6 percent of total deliveries.

In the Pacific Theater, according to MEDCOM-Korea, 75 percent of the remote site patients arrive at Yong Son Army Hospital by bus and 25 percent by car. As a result, these patients would not qualify for this provision. Figures provided for Okinawa show that the total number of remote site patients included 20 out of 1,172 in 2007 and 34 out of 1,141 in 2008. In Japan, only patients from Sasebo and Misawa come by plane to Yokosuka Naval Hospital and would qualify under this provision. Data from these two locations indicate there were a total of 11 remote site patients from 2006 through 2008.

While data is not available from the U.S. Southern Command area of responsibility, it is clear that, with a force of approximately 1,200 military and civilian personnel--compared to the U.S. European Command's military population of over 83,000--that area of responsibility would have a very small number of remote site patients affected by this legislative change.

In particular, none of the locations contacted cited any impact on credentialing for staff providers due to this proposal.

Accordingly, based on DoD's "stork nesting" experience over the past two years, we estimate that this proposal would affect approximately 120 dependents per year in very remote locations, with no additional cost to the Government. Those dependents would be travelling—to Europe or Japan--under current law. Under this proposal, they could travel to the United States at no increase in cost to the Government.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Travel and per diem	0.1	0.1	0.1	0.1	0.1	Operation and Maintenance, Army	01	138
Travel and per diem	0.1	0.1	0.1	0.1	0.1	Operation and Maintenance, Navy	01	1CCH
Travel and per diem	0.1	0.1	0.1	0.1	0.1	Operation and Maintenance, Air Force	01	11Z
Travel and per diem	1.5	1.5	1.5	1.5	1.5	Defense-wide, Defense Health Program	01	OP-5, In-House Care
Total	1.8	1.8	1.8	1.8	1.8			

The chart above reflects the estimated cost of such travel under current law. Because the proposal provides that costs under the changes could not exceed current law costs, enactment would result in no additional costs to the Government.

Changes to Existing Law: This proposal would make the following changes to section 1040 of title 10, United States Code:

§ 1040. Transportation of dependent patients

(a)(1) Except as provided in subsection (b), if a dependent accompanying a member of the uniformed services who is stationed outside the United States or in Alaska or Hawaii and who is on active duty for a period of more than 30 days requires medical attention which is not available in the locality, transportation of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. On his recovery or when it is administratively determined that the patient should be removed from the medical facility involved, the dependent may be transported at the expense of the United States to the duty station of the member or to such other place determined to be appropriate under the circumstances. If a dependent is unable to travel unattended, round-trip transportation and travel expenses may be furnished necessary attendants. In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.

(2)(A) For purposes of paragraph (1), required medical attention of a dependent includes, in the case of a dependent authorized to accompany a member at a location described in that paragraph, obstetrical anesthesia services for childbirth equivalent to the obstetrical anesthesia services for childbirth available in a military treatment facility in the United States.

(B) In the case of a dependent at a remote location outside the continental United States who elects services described in subparagraph (A) and for whom air transportation would be needed to travel under paragraph (1) to the nearest appropriate medical facility at which adequate medical care is available, the Secretary may authorize the dependent to receive transportation under that paragraph to the continental United States and be treated at the military treatment facility that can provide appropriate obstetrical services that is nearest to the closest port of entry into the continental United States from such remote location.

(C) The second through sixth sentences of paragraph (1) shall apply to a dependent provided transportation by reason of this paragraph.

(D) The total cost incurred by the United States for the provision of transportation and expenses (including per diem) with respect to a dependent by reason of this paragraph may not exceed the cost the United States would otherwise incur for the provision of transportation and expenses with respect to that dependent under paragraph (1) if the transportation and expenses were provided to that dependent without regard to this paragraph.

(E) The authority under this paragraph shall expire on September 30, 2016.

(b) This section does not authorize transportation and travel expenses for a dependent for elective surgery which is determined to be not medically indicated by a medical authority designated under joint regulations to be prescribed under this section.

(c) In this section, the term ”dependent” has the meaning given that term in section 1072 of this title.

(d) Transportation and travel expenses authorized by this section shall be furnished in accordance with joint regulations to be prescribed by the Secretary of Transportation, the Secretary of Defense, the Secretary of Commerce, and the Secretary of Health and Human Services, which shall require the use of transportation facilities of the United States insofar as practicable.

Section 603 would amend section 430 of title 37, United States Code, to authorize funded student travel for a dependent of a service member assigned overseas, regardless of the location of the dependent's university or college. This proposal would not affect the current authority for student travel for overseas service members' dependents attending a university or college in the United States (or a foreign study program of the U.S. university or college).

Military members assigned overseas are currently entitled to government-funded travel for their dependents receiving a formal education in the United States. This funding is extended to overseas military sponsors whose dependents are attending an international exchange program through a U.S. educational institution. The benefit is not, however, extended to dependents whose primary educational institution is an overseas university or college. This proposal would modify the statute to extend the student travel benefit to cover dependents attending a university, college, or similar institution -- regardless of location -- when the military sponsor is stationed overseas.

Overseas military personnel frequently send their dependents to international schools when Department of Defense Dependents Schools facilities are not available locally. It is not uncommon for sponsors to elect a university or college education in the overseas area because: (1) their dependents are familiar with the overseas school systems; and/or (2) the overseas university or college is more accessible to the sponsor's location.

Under current law, dependents studying overseas at a university or college on an exchange program are eligible for funded student travel, but dependents directly enrolled full-time at the same overseas university or college are not eligible for funded student travel. However, dependent travel costs can be prohibitive for certain military members, particularly those in remote overseas assignment areas such as Offices of Security Cooperation or Defense Attaché Offices on the African continent. By contrast, in many of these locations, if the dependent were enrolled in a school in the United States, the cost to the government would be significantly more than the proposed cost of travel from the overseas educational institution.

Budgetary Implications: The Department of Defense estimates that this proposal would cost $233,000 annually, for a total of $1.165 million, from fiscal year (FY) 2012-2016.

NUMBER OF DEPENDENTS AFFECTED								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Air Force	35	35	35	35	35	O&M (O-1) 3400F	01	030
Army	33	33	33	33	33	O&M (O-1) 2020A	04	431
Marine Corps	1	1	1	1	1	O&M (O-1) 1106N	04	4A4G
Navy	9	9	9	9	9	O&M (O-1) 1804N	04	4A1M
Total	78	78	78	78	78			

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Air Force	$0.1	$0.1	$0.1	$0.1	$0.1	O&M (O-1) 3400F	01	030
Army	$0.1	$0.1	$0.1	$0.1	$0.1	O&M (O-1) 2020A	04	431
Marine Corps	$0.003	$0.003	$0.003	$0.003	$0.003	O&M (O-1) 1106N	04	4A4G
Navy	$0.03	$0.03	$0.03	$0.03	$0.03	O&M (O-1) 1804N	04	4A1M
Total	$0.233	$0.233	$0.233	$0.233	$0.233			

Costing Methodology: The Department based the cost of the proposal on data retrieved from the Defense Manpower Data Center (DMDC). According to DMDC, 78 students (ages 21-23) are listed currently with addresses outside the continental United States. The average cost of student travel per student was estimated at $3,000. These calculations assume that:

- The DMDC data for students (ages 21-23) accounts for approximately 50 percent of the actual number of students enrolled in full-time university or college programs overseas.

- Approximately half of the students enrolled in overseas university or college programs have military sponsors who are also overseas.

Changes to Existing Law: This proposal would make the following changes to section 430 of title 37, United States Code:

§ 430. Travel and transportation: dependent children of members stationed overseas

(a) AVAILABILITY OF ALLOWANCE.—(1) Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid the allowance set forth in subsection (b)

if the member—

(A) is assigned to a permanent duty station outside the continental United States;

(B) is accompanied by the member's dependents at or near that duty station (unless the member's only dependents are in the category of dependent described in paragraph (2)); and

(C) has an eligible dependent child described in paragraph (2).

(2) An eligible dependent child of a member referred to in paragraph (1)(C) is a child who—

(A) is under 23 years of age and unmarried; and

(B)(i)(I) is enrolled in a school in the continental United States for the purpose of obtaining a formal education; and

(~~C~~II) is attending that school or is participating in a foreign study program approved by that school and, pursuant to that foreign study program, is attending a school outside the United States for a period of not more than one year.~~;~~; or

(ii) is attending a college, university, or similar institution outside the United States, including a technical or business school, offering postsecondary level academic instruction leading to an associate or higher degree, or the equivalent, which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

(b) ALLOWANCE AUTHORIZED.—(1) A member described in subsection (a) may be paid a transportation allowance for each eligible dependent child of the member of one annual trip between the school being attended by that child and the member's duty station outside the continental United States and return. The allowance authorized by this section may be transportation in kind or reimbursement therefor, as prescribed by the Secretaries concerned. However, the transportation authorized by this section may not be paid a member for a child attending a school in the continental United States for the purpose of obtaining a secondary education if the child is eligible to attend a secondary school for dependents that is located at or in the vicinity of the duty station of the member and is operated under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) The allowance authorized under paragraph (1) for the travel of an eligible dependent may include reimbursement for costs incurred by or on behalf of the dependent for lodging of the dependent that is necessitated by an interruption in the travel caused by extraordinary circumstances prescribed in the regulations under subsection (a). The amount of the reimbursement shall be determined using the rate applicable to such circumstances.

(3) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent's school ~~in the continental United States~~, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the member's duty station or during a different period in the same fiscal year selected by the member. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.

(4) The transportation allowance paid under paragraph (1) for an annual trip of an eligible dependent child who is attending a foreign study program at a school outside the United States under subsection (a)(2)(B)(i)(II) may not exceed the transportation allowance that would be paid under this section for the annual trip of that child between the child's school in the continental

United States and the member's duty station outside the continental United States and return.

(c) USE OF AIRLIFT AND SEALIFT COMMAND.—Whenever possible, the Air Mobility Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(d) ATTENDANCE AT SCHOOL IN ALASKA OR HAWAII.—For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(2) who is attending a school in Alaska or Hawaii.

(e) EXCEPTION.—The transportation allowance authorized by this section (whether transportation in kind or reimbursement) may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

(f) DEFINITIONS.—In this section:

(1) The term "formal education" means the following:

(A) A secondary education.

(B) An undergraduate college education.

(C) A graduate education pursued on a full-time basis at an institution of higher education.

(D) Vocational education pursued on a full-time basis at a postsecondary vocational institution.

(2) The term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) The term "postsecondary vocational institution" has the meaning given that term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002 (c)).

TITLE VII—HEALTH CARE PROVISIONS

Section 701 would assist the reserve components with recruiting critically short, mental health professionals (MHP) during their post-baccalaureate or residency training programs. Currently, 10 U.S.C. 16201 allows a stipend to be offered for specialty training in a critical skill to medical students, dental students, and Baccalaureate students in nursing programs and other health professions, Registered Nurses attending specialty training, and physicians and dentists in residency training programs, as determined by the Secretary of Defense. Yet, the law does not allow a stipend to be offered for post-baccalaureate training programs in mental health.

There continues to be a critical shortage of MHP throughout the United States and within in the military. After accounting for projected losses, the Army Reserve (AR) has only 50 percent (28 of 56) of its required Clinical Psychologists. The AR has only been able to recruit less than 50 percent (18 of 40) of the mission requirement for Clinical Psychologists over the past five years. Considering the shortage of mental health professionals in the reserve components and the nation as a whole, this proposed amendment to 10 U.S.C. 16201 would expand the stipend program to include post-baccalaureate degrees and training leading to certification as a licensed mental health provider in Clinical Psychology or Social Work.

Currently, a Clinical Psychologist is eligible for Health Professions Special Pay. Health Professions Special Pay incurs a one-year commitment for each year of participation in the program, at a maximum rate of $25,000 per year for up to three years, resulting in a total incentive package of $75,000 for a three-year commitment. Participants in the stipend program incur a two-year commitment for each year of participation. Hence, a three-year participant in the Mental Health Student Stipend Program authorized by this legislative proposal, at the current stipend rate of approximately $25,000 per year, would incur a six-year commitment in the Selected Reserve versus the three-year commitment for the Health Professions Special Pay Program for essentially the same $75,000 investment.

In this era of persistent conflict the force increasingly faces mental health challenges. Currently, the U.S. military is experiencing a shortage in mental health care professionals. Because of the geographic dispersion and infrequent contact once the Soldiers are released from active duty, it could be several years before the full extent of the mental health challenges facing our Soldiers as they return from Theater and assimilate back into their communities are understood. The best method to reduce the current shortage is to expand and grow the pool of mental healthcare professionals. This shortage has also resulted in an increase in the Army's dependence on behavioral health care resources resident in the reserve components. The Mental Health Student Stipend Program under this legislative proposal would expand the number of professionals in the reserve components, which would benefit the total force.

Budget Implications: Under this proposal each of the Secretaries of the military departments would have the authority to use this provision; however, only the Army would utilize it for fiscal year (FY) 2012. In the future, if other Services wish to use this program, they may elect to do so if it is budgeted for within their annual budgets. Currently, both the Navy and the Air Force are ineligible to utilize this stipend as they are at 100 percent of their mental health professionals in critical wartime specialties.

This proposal would be budget neutral. The military departments would utilize this new authority on a case-by-case basis and determine how many stipends to offer in any year based on their requirements projections. Any costs associated with the Mental Health Student Stipend Program would be managed by the military departments within their officer incentives programs.

Execution of the program would be dependent upon the needs of the military departments and would not be directed. The military departments could use this program when and if they need it. As a result, this new program would not pose a detriment to other programs and could only help the military departments meet the demands of recruiting and sustaining high-quality mental health professional candidates to serve in the reserve components.

If implemented in FY 2012, the cost of one participant would be $25,778. This calculation includes a monthly stipend of $2,130 for the first nine months of FY 2012 (from October 2011 to June 2012) and $2,202 for the remaining three months (July 2012 to September 2012). Based on a total of 30 students taking the stipend in the first year, the cost estimate for FY 2012 would be $773,000. The Department of Defense estimates that the average taker would sign a three-year stipend agreement, and that there would be 30 new starts per year. Following these estimates,

the program would reach a steady state load of 90 students per year by FY 2014. Using a standard inflation factor of 3.4 percent for stipend and grant, the total cost of the program by FY 2016 would be $2.651 million.

RESOURCE REQUIREMENTS ($MILLIONS)								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	$.773	$1.599	$2.480	$2.564	$2.651	RPA, SAG 1Q NGPA, SAG 1Q	001	Admin and Support
Navy	$0	$0	$0	$0	$0			
AF	$0	$0	$0	$0	$0			
Total	$.773	$1.599	$2.480	$2.564	$2.651			

NUMBER OF PERSONNEL AFFECTED								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0			
Navy	0	0	0	0	0			
Marine Corps	0	0	0	0	0			
AF	0	0	0	0	0			
Total	0	0	0	0	0			

Changes to Existing Law: This proposal would make the following changes to section 16201 of title 10, United States Code:

§ 16201. Financial assistance: health-care professionals in reserve components

(a) ESTABLISHMENT 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 or training in a health professions specialty that is 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 SCHOOL STUDENTS.—(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 will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's 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)~~ subsection (g), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

(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 requirements 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 in the Selected Reserve, upon successful completion of the program, for the period of service applicable under paragraph (3).

(3)(A) Subject to subparagraph (B), the period for which a participant is required to serve in the Selected Reserve under the agreement pursuant to paragraph (2)(D) shall be one year for each period of six months, or part thereof, for which the participant is provided a stipend pursuant to the agreement.

(B) In the case 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) PHYSICIANS AND DENTISTS IN CRITICAL WARTIME SPECIALTIES.—(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 a graduate of a medical school or dental school;

(B) is eligible for appointment, designation, or assignment as a medical officer or dental officer in the Reserve of the armed force concerned or has been appointed as a medical or dental officer in the Reserve of the armed force concerned; and

(C) is enrolled or has been accepted for enrollment in a residency program for physicians or dentists in a medical or dental specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under ~~subsection (f)~~ subsection (g), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

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

(C) the participant shall be subject to such active duty requirements 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 Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

(d) REGISTERED NURSES IN CRITICAL SPECIALTIES.—(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 a registered nurse;

(B) is eligible for appointment as—

(i) a Reserve officer for service in the Army Reserve in the Army Nurse Corps;

(ii) a Reserve officer for service in the Navy Reserve in the Navy Nurse Corps; or

(iii) a Reserve officer for service in the Air Force Reserve with a view to designation as an Air Force nurse under section 8067(e) of this title; and

(C) is enrolled or has been accepted for enrollment in an accredited program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under ~~subsection (f)~~ subsection (g), for the period or the remainder of the period of the nursing program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before being appointed as a Reserve officer for service in the Ready Reserve—

(i) in the Nurse Corps of the Army or Navy; or

(ii) as an Air Force nurse of the Air Force;

(C) the participant shall be subject to such active duty requirements 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 Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

(e) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(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) will, upon completion of the program, be eligible to be appointed, designated, or assigned as a Reserve officer for duty as a nurse or other health professional; and

(B) is enrolled, or has been accepted for enrollment in the third or fourth year of—

(i) an accredited baccalaureate nursing program; or

(ii) any other accredited baccalaureate program leading to a degree in a health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for the period or the remainder of the period of the baccalaureate program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before enlistment in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements 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 graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

(f) MENTAL HEALTH PROFESSIONALS IN CRITICAL WARTIME SPECIALTIES.—(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 clinical psychology or social work;

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

(i) complete the educational phase of the program;

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

(iii) participate in a residency program if required for clinical licensure; and

(D) if required by regulation prescribed by the Secretary of Defense, agree 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 (g), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in clinical psychology or social work while enrolled in a school accredited in the designated mental health discipline;

(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 requirements 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 Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

(~~f~~ g) AMOUNT OF STIPEND.—The amount of a stipend under an agreement under subsection (b) or (c) shall be—

(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Section 801. Litigation in the current environment routinely involves tens of thousands to millions of pages of documents and addresses issues of a highly technical or scientific nature. The assistance of litigation support contractors (LSC), including experts and consultants, is necessary to ensure the Department of Defense's (DoD's) legitimate interests in such matters are properly represented.

For example, the Department of the Navy (DON) relies heavily upon LSCs to collect large quantities of documents from numerous repositories at dispersed locations. The information must then be further processed to permit efficient trial attorney access and effective review of information to protect the Department's legal interests and to meet its obligations to tribunals and other parties. LSCs currently assist the DON to defend against contract claims exceeding $1.4 billion (excluding A-12 and Iranian claims), personnel claims exceeding $690 million, $2.2 billion in environmental cases, and are essential to the success of the DON's affirmative environmental litigation. Similarly, consultants are required to review documents and provide technical recommendations, expert opinions, or other professional services in support of the DON during or in anticipation of litigation.

The proposed legislative amendment clarifies that officers and employees of the DoD may provide a broader range of information to LSCs. than simply proprietary and technical data, to obtain administrative, technical, or professional assistance under contracts for litigation support. A stand-alone section in title 10, United States Code, is necessary to ensure that federal employees are clearly authorized to disclose the broader range of information to LSCs without fear of personal liability under federal law for disclosure of various types of confidential information. The prefatory language of paragraph (c)(2) of §2320 of title 10, as amended by the

Ike Skelton National Defense Authorization Act for Fiscal Year 2011, can be interpreted to provide LSCs access only to technical data subject to license rights described in subsection (a) of §2320, notwithstanding a broader reference to "technical, proprietary, or confidential data" in subparagraph (c)(2)(B). This reference and the placement of the disclosure authorization in §2320 itself, which is devoted to "rights in technical data," do not appear to support authorization for disclosure to a LSC of the broad range of information necessary for LSCs to effectively provide litigation support. Additionally, the fact that subsection (g) only refers to "technical data," and not other types of information to which DoD requires the LSC have access, further negates a broad reading of paragraph (c)(2). The DoD proposal strikes an appropriate balance between enabling federal employees to make broad disclosure to litigation support contractors without fear of liability and safeguarding governmental and third-party interests against further disclosure and unauthorized use of the information. As a condition precedent, LSCs must execute a non-disclosure agreement with the Department precluding the use of such information except as authorized by the contract; violation of the agreement is grounds for contract termination. This requirement provides the owner of the information protections similar to those provided under 10 U.S.C. 2320, which is applicable to other types of support contractors, without impeding the litigation interests of the DoD.

Budget Implications: The proposal does not impact budgetary resources because permitting disclosures to Litigation Support Contractors does not require an expenditure of funds.

Changes to Existing Law: This proposal would add a new section 129d to title 10, United States Code. The text of the new section is shown in the legislative proposal above. The proposal would also amend 10 U.S.C. 2320, as shown below:

§2320. Rights in technical data

(a) ***

* * * * * * *

(c) Nothing in this section or in section 2305(d) of this title prohibits the Secretary of Defense from—

(1) prescribing standards for determining whether a contract entered into by the Department of Defense shall provide for a time to be specified in the contract after which the United States shall have the right to use (or have used) for any purpose of the United States all technical data required to be delivered to the United States under the contract or providing for such a period of time (not to exceed 7 years) as a negotiation objective;

(2) notwithstanding any limitation upon the license rights conveyed under subsection (a), —

~~(A)~~ allowing a covered Government support contractor access to and use of any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of the program or effort to which such technical data relates; or

~~(B) allowing a covered litigation support contractor access to and use of any technical, proprietary, or confidential data delivered under a contract for the sole purpose of providing litigation support to the Government in the form of administrative, technical, or professional services during or in anticipation of litigation; or~~

(3) prescribing reasonable and flexible guidelines, including negotiation objectives, for the conduct of negotiations regarding the respective rights in technical data of the United States and the contractor.

* * * * * * *

~~(g) In this section, the term "covered litigation support contractor" means a contractor (including an expert or technical consultant) under contract with the Department of Defense to provide litigation support, which contractor executes a contract with the Government agreeing to and acknowledging~~

~~(1) that proprietary or nonpublic technical data furnished will be accessed and used only for the purposes stated in that contract;~~

~~(2) that the covered litigation support contractor will take all reasonable steps to protect the proprietary and nonpublic nature of the technical data furnished to the covered litigation support contractor; and~~

~~(3) that such technical data provided to the covered litigation support contractor under the authority of this section shall not be used by the covered litigation support contractor to compete against the third party for Government or non-Government contracts.~~

Section 802 would amend section 2253(a)(2) of title 10, United States Code, to clarify that the purchase cost limitation applies only to right hand drive passenger sedan vehicles as well as increase the purchase cost limitation applicable to such vehicles.

Subsection (a)(2) currently states, "The Secretary of Defense and the Secretary of each military department may purchase right-hand drive vehicles at a cost of not more than $30,000 each." The section does not define the term "vehicles". Section 101(g) of title 10, United States Code, however, states, "For other definitions applicable to this title, see sections 1 through 5 of title 1." Section 4 of title 1, United States Code, states, "The word 'vehicle' includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land." This definition is extremely broad, and appears to include all types of motor vehicles, such as trucks, ambulances, fire fighting equipment, fuel trucks, buses, and mobile cranes. Currently, the cost of all such vehicles in Okinawa, Japan exceeds the $30,000 limitation. Using a 108.996 Yen to 1 U.S. Dollar conversion rate, the cost of a right-hand drive ambulance in Okinawa, Japan ranges from $80,000 to $100,000 and the cost of a right-hand drive fire truck ranges from $400,000 for a pumper to $900,000 for a large ladder truck.

The rationale for the suggested change is to insert the original legislative intent into the title 10 provision. The Conference Report to the National Defense Appropriations Act for Fiscal

Year 1996 (H.R. Conf. Rep. No. 104-344, 88), discussed the limitation in section 2253. The report specifically stated "The conferees agree that this limitation should only apply to the purchase of *passenger sedans* manufactured outside of the United States." (Emphasis Added). Thus, inserting the term "passenger sedan" expresses the true legislative intent of section 2253(a)(2). It also eliminates the need for an exhaustive list to be included in the statute of all vehicles that are not subject to the monetary limitation. If such a list was included, the statute would have to be regularly amended to reflect changing technology, resources, and vehicle availability.

This proposal also would increase the purchase cost limitation that would apply to right-hand drive passenger sedan vehicles from $30,000 to $45,000. This increase is needed to keep pace with rising costs. For example, current prices for compact sedans in the Far East already range from between $26,000 and $29,000, depending upon make and model. The cost for a mid-size Toyota Camry is approximately $34,000. Because General Services Administration services are not available in the Far East, the option to lease vehicles through that source is not viable. An increase in the statutory limit to $45,000 will allow for vehicle purchases for some period of time without the need to seek another legislative change.

Budget Implications: The Department of the Navy (DON) will fund the additional authority within current budgetary constraints by procuring a smaller number of sedans. Price increases are driven by the economy, exchange rates in the various countries and new vehicle technologies to reduce the carbon footprint that are being implemented world-wide. With FY10 prices already increasing from the mid-$20K to high $30K and in some cases $40K, the prices for the FY12 procurement cycle could easily be closer to the new $45K requested cost limitation when factoring in inflation and / or foreign currency fluctuations.

RESOURCE REQUIREMENTS ($ MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Quantity	1	3	4	3	3			
Passenger Carrying Vehicles	.045	.095	.146	.092	.102	OPN	05	121

Changes to Existing Law: This proposal would make the following changes to section 2253 of title 10, United States Code:

§ 2253. Motor vehicles

(a) GENERAL AUTHORITIES.—The Secretary of Defense and the Secretary of each military department may—

(1) provide for insurance of official motor vehicles in a foreign country when the laws of such country require such insurance; and

(2) purchase right-hand drive vehicles, but at a cost of not more than ~~$30,000~~ $45,000 each for passenger sedans.

(b) HIRE OF PASSENGER VEHICLES.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the hire of passenger motor vehicles.

Section 803 would raise the authorized Secretarial approval levels for minor land acquisition and unspecified minor military construction projects deemed necessary by the Secretary of a military department for anti-terrorism and force protection requirements (AT/FP) to the same dollar levels currently authorized in sections 2663 and 2805 of title 10, United States Code, for land acquisitions and minor construction to address life-threatening, health-threatening, or safety-threatening situations. This would increase the Secretarial approval dollar threshold for AT/FP requirements: (1) from $750,000 to $1,500,000 for acquisition of low-cost interests in land; (2) from $2,000,000 to $3,000,000 for carrying out an unspecified minor military construction project; and (3) from $750,000 to $1,500,000 for use of operation and maintenance (O&M) funds for unspecified minor construction.

A substantial number of land acquisition requests are for property that would help ensure installation entry control points (ECPs) comply with AT/FP standards published by the Department of Defense. Providing the military departments with increased minor land acquisition authority for acquiring such property would help accelerate ongoing efforts to improve AT/FP at military installations and sites.

UMC projects are military construction projects below a specified dollar threshold that the Department may undertake without specific project authorization from Congress. A significant number of AT/FP non-compliant ECPs can be more quickly and efficiently remedied with unspecified minor construction (UMC) if the dollar threshold for such construction was increased to an amount currently authorized for remedying life-threatening, health-threatening, or safety-threatening situations.

The Senate Armed Services Committee at pages 266-67 of Senate Report 111-201 accompanying S. 3454, the National Defense Authorization Act for Fiscal Year 2011, emphasized the importance of the military services addressing AT/FP compliance at ECPs in a timely manner. According to a June 2009 DOD Report to Congress on application of force protection and anti-terrorism standards to gates and entry points on military installations, of the 1768 entry control points on 349 major military installations world-wide, 1,078 have facility

requirements, such as construction and land acquisition, that must be addressed to permanently satisfy AT/FP standards.

Of the 1078 that have facility requirements, 266 ECPs need permanent facilities with an estimated cost greater than $750,000 each and which have not yet been budgeted and planned for execution. Increasing the authorization thresholds for AT/FP-related minor land acquisition and UMC using O&M funds to $1,500,000, as proposed, provides the military services the ability to partially or wholly resolve AT/FP non-compliance issues for these ECPs without the need for additional project authorization from Congress.

Of the 266 ECPs with a cost greater than $750,000 threshold, 157 ECPs have an estimated cost greater than $2,000,000, which is the current dollar authorization level for UMC using non-O&M funds. Of the 157 above, 38 ECPs have an estimated cost greater than $2,000,000 but less than or equal to $3,000,000. These 38 ECPs would benefit from an increase of the UMC threshold to $3,000,000. Of the remaining 119 ECPs with project costs greater than $3,000,000, an indeterminate amount of the ECPs may have facility requirements that include a combination of segregable UMC and minor land acquisition projects which can benefit from the increased minor land acquisition and UMC authorization thresholds.

Budget Implications: This proposal addresses an increase in authority, not a specific budget line item. It would authorize the Secretary of a military department to use funds already appropriated for operation and maintenance (O&M) or construction to satisfy AT/FP project-related facility requirements that have not yet been budgeted or planned for execution for the following number of installation ECPs.

NUMBER OF ECPS WITH AN UNBUDGETED NEED FOR PERMANENT FACILITY PROJECTS TO SATISFY AT/FP REQUIREMENTS THAT COULD BENEFIT FROM PROPOSED INCREASED AUTHORITY ($THOUSAND)

	Cost > $750	Cost > $750, but ≤ $1500 (Minor Land Acquisition and O&M UMC)	Cost > $2000 but ≤ $3000 (non-O&M UMC)	(Projects > $750) Expect Funding From:
Army	118	39	20	O&M – 1 MILCON - 117
Navy	89	22	11	O&M – 15 GWOT – 1 MILCON - 73
Marine Corps	7	2	1	MILCON - 7
Air Force	48	17	6	O&M – 10 MILCON - 48
DLA/WHS	4	0	0	MILCON – 4
Total	266	80	38	O&M – 26 GWOT – 1 MILCON - 239

Changes to Existing Law: This proposal would make the following changes to sections 2663 and 2805 of title 10, United States Code:

§ 2663. Land acquisition authorities

(a) ACQUISITION OF LAND BY CONDEMNATION FOR CERTAIN MILITARY PURPOSES.—***

* * * * * * *

(b) ACQUISITION BY PURCHASE IN LIEU OF CONDEMNATION.—***

(c) ACQUISITION OF LOW-COST INTERESTS IN LAND.—(1) The Secretary of a military department may acquire any interest in land that—

(A) the Secretary determines is needed in the interest of national defense; and

(B) does not cost more than $750,000, exclusive of administrative costs and the amounts of any deficiency judgments.

(2) The Secretary of a military department may acquire any interest in land that—

(A) the Secretary determines is needed—

(i) solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; ~~and~~ or

(ii) for anti-terrorism and force protection requirements; and

(B) does not cost more than $1,500,000, exclusive of administrative costs and the amounts of any deficiency judgments.

(3) This subsection does not apply to the acquisition, as a part of the same project, of more than one parcel of land unless the parcels are noncontiguous, or, if contiguous, unless the total cost is not more than $750,000, in the case of an acquisition under paragraph (1), or $1,500,000, in the case of an acquisition under paragraph (2).

(4) Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of land or interests in land under this subsection.

* * * * * * *

§ 2805. Unspecified minor construction

(a) AUTHORITY TO CARRY OUT UNSPECIFIED MILITARY CONSTRUCTION PROJECTS.—(1) Within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law.

(2) An unspecified minor military construction project is a military construction project that has an approved cost equal to or less than $ 2,000,000. However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, or for anti-terrorism and force protection requirements, an unspecified minor military construction project may have an approved cost equal to or less than $ 3,000,000.

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—***

(c) USE OF OPERATION AND MAINTENANCE FUNDS.— (1) Except as provided in paragraph (2), the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than—

(A) $ 1,500,000, in the case of an unspecified minor military construction project intended—

(i) solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

(ii) for anti-terrorism and force protection requirements; or

(B) $ 750,000, in the case of any other unspecified minor military construction project.

(2) The limitations specified in paragraph (1) shall not apply to an unspecified minor military construction project if the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.

* * * * * * *

Section 804. Section 1017 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-365) directed the Secretary of Defense to create an acquisition policy that gives preference to carriers using domestic ship repair facilities over carriers that use foreign ones. Section 1017 further requires the Secretary, acting through the United States Transportation Command (USTRANSCOM), to provide a report regarding overhaul, repair, and maintenance performed on covered vessels of each offeror of carriage to which the acquisition policy applies to the Committees on Armed Services of the Senate and the House of Representatives. USTRANSCOM has submitted three reports in accordance with the law.

In practice, the acquisition policy has not driven carrier behavior for several reasons and has resulted in a negative impact for acquisition professionals. In calendar year 2009, there were seven solicitations and seven one-time-only cargo movements. In response to these requests for offers, 24 carriers expressed interest in offering transportation services. Of these, 13 carriers used exclusively domestic repair service; 3 carriers used a mix of domestic and foreign repairs and 8 carriers were not considered because they did not/could not provide data. In many instances the carriers didn't own the vessels and the vessel owners refused to release the information. This resulted in fewer offerors, in response to solicitations, creating an environment of limited competition which ultimately drives higher costs.

Based on the last three years of data, most of the Jones Act carriers already were using domestic ship repair facilities with few exceptions so it is unlikely the law is responsible for driving behavior. The few carriers that use foreign repair facilities are the larger companies that will have minor work done in domestic repair facilities but will continue to have major overhaul work in foreign repair facilities. One of these carriers, Matson provided comments in response to the interim rule along the lines that they contribute to the industrial base by purchasing new vessels that are U.S. built, i.e. four new $506 million ships and $25 million ship conversion.

These vessels will not require significant expenditure in U.S. repair facilities for several years. The primary rationale for using foreign repair facilities is driven by schedule availability, cost, and suitability of shipyards. One example was provided where ORCA vessels can only be serviced at NASSCO or at a shipyard in Victoria, British Columbia.

While the Department of Defense supports the preference for carriers using domestic repair facilities policy, we must continue to use carriers that utilize foreign repair facilities for various reasons: The number of carriers offering on a solicitation are limited--usually no more than 3 offerors, sometimes only one carrier offers and in many instances only the carrier(s) that use foreign repair facilities are the offerors. The evaluation preference for use of domestic shipyards is considered along with other price and non-price factors in making an award decision. Some examples of non-price factors include past performance, VISA, technical (required delivery date, capacity, and availability) as well as socio-economic considerations. Finally, there are many instances when the carrier(s) using foreign repair facilities offering on a solicitation are the only offerors that meet the technical requirements.

In the three years this law has been in effect, there has not been a documented instance where the evaluation preference for domestic ship repair has been a discriminator or tie breaker due to: 1) all offerors under an RFP had all work done in domestic shipyards or (2) an offeror who might have received evaluation preference was determined to be unacceptable, (3) another technical or cost factor had more weight. All contracting officers submitting data for the annual Report to Congress confirm that all factors being equal, they would have awarded to the offeror who primarily used domestic repair facilities given the opportunity.

The acquisition policy and reporting requirement has not resulted in increasing the industrial base or had any practical effect on carrier decisions in use of shipyards. The requirement has increased the information collection burden for offerors and acquisition professionals with no appreciable benefit and effectively limited competition in the instances where offerors lease vessels. The requirement should be repealed.

Budget Implications: This proposal will not increase the overall budget requirements of the Department of Defense. The deletion of the reporting requirement will provide very minor cost savings to the Transportation Working Capital Fund, which will be passed on to the Services in the form of reduced rates.

RESOURCE SAVINGS ($THOUSANDS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	+0	+0	+0	+0	+0	O&M, Army-		
Navy	+0	+0	+0	+0	+0	O&M, Navy –		
Marine Corps	+0	+0	+0	+0	+0	O&M, Marine Corps –		
Coast Guard	+0	+0	+0	+0	+0	O&M, Coast Guard		
Air Force	+1	+1	+1	+1	+1	O&M, Air Force – 3400		
Total	+1*	+1	+1	+1	+1			

* Amounts required for tracking data and report preparation estimated to be less than $1K per year. Funding provided to USTRANSCOM from U.S. Air Force-funded Airlift Readiness Account for non-mission related tasking.

NUMBER OF PERSONNEL AFFECTED							
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0		

Changes to Existing Law: This section would make the following changes to the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364):

~~SEC. 1017. OBTAINING CARRIAGE BY VESSEL: CRITERION REGARDINGOVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN THE UNITED STATES~~.

~~(a) ACQUISITION POLICY.—In order to maintain the national defense industrial base, the Secretary of Defense shall issue an acquisition policy that establishes, as a criterion required to be considered in obtaining carriage by vessel of cargo for the Department of Defense, the extent to which an offeror of such carriage had overhaul, repair, and maintenance work for covered vessels of the offeror performed in shipyards located in the United States.~~

~~(b) COVERED VESSELS.—A vessel is a covered vessel of an offeror under this section if the vessel is—~~

~~(1) owned, operated, or controlled by the offeror; and~~

~~(2) qualified to engage in the carriage of cargo in the coastwise or non-contiguous trade under section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), section 12106 of title 46, United States Code, and section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802).~~

~~(c) APPLICATION OF POLICY.—The acquisition policy shall include rules providing for application of the policy to covered vessels as expeditiously as is practicable based on the nature of carriage obtained, and by no later than June 1, 2007.~~

~~(d) REGULATIONS.—~~

~~(1) IN GENERAL.—The Secretary shall prescribe regulations as necessary to carry out the acquisition policy and submit such regulations to the Committees on Armed Services of the Senate and the House of Representatives, by not later than June 1, 2007.~~

~~(2) INTERIM REGULATIONS.—~~

~~(A) IN GENERAL.—The Secretary may prescribe interim regulations as necessary to carry out the acquisition policy. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code.~~

~~(B) SUBMISSION TO CONGRESS.—Upon the issuance of interim regulations under this paragraph, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the interim regulations and a description of the acquisition policy developed (or being developed) under subsection (a).~~

~~(C) EXPIRATION.—All interim regulations prescribed under the authority of this paragraph that are not earlier superseded by final regulations shall expire no later than June 1, 2007~~.

~~(e) ANNUAL REPORT.—The Secretary, acting through the United States Transportation Command, shall annually submit to the Committees on Armed Services of the~~

~~Senate and the House of Representatives a report regarding overhaul, repair, and maintenance performed on covered vessels of each offeror of carriage to which the acquisition policy applies.~~

~~(f) DEFINITIONS.—In this section:~~

~~(1) FOREIGN SHIPYARD.—The term ''foreign shipyard'' means a shipyard that is not located in the United States.~~

~~(2) UNITED STATES.—The term ''United States'' means—~~
~~(A) any State of the United States; and~~
~~(B) Guam.~~

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Intelligence-Related Matters

Section 901. The congressional appropriations committees have expressed concern about the complexity of auditing Defense intelligence agency expenditures. This proposal would improve the ability of Defense intelligence elements to audit expenditures by authorizing the Secretary of Defense to transfer Defense appropriations into an account or accounts established by the Secretary of the Treasury for receipt of such funds. The funds from such account or accounts would be authorized to receive transfers and reimbursement from transactions between the Defense intelligence elements and other entities, and the Director of National Intelligence would be able to transfer funds into those account(s).

This proposal's placement of the Secretary's new authority in chapter 21 of title 10, United States Code, is consistent with similar fiscal authority granted to the Secretary of Defense related to the management of Defense intelligence elements. New section 429 would be an addition to subchapter I and compares to existing sections 421, 422, and 423 regarding funds associated with Defense intelligence activities. The proposal's subsection (a) contains the text for proposed new section 429. The proposal's subsection (b) is a clerical amendment to add the title of the new section to the table of sections at the beginning of Subchapter I of chapter 21.

New section 429(a) would authorize the Secretary of Defense to transfer funds provided for Defense intelligence elements to accounts established by the Secretary of the Treasury for receipt of such funds.

New section 429(b) would expressly preserve limitations on time and purpose for the appropriations placed into these accounts. Transfer of funds to new accounts will not change how these funds may be used to pay authorized obligations of the respective element for an obligation that occurs within the allotted period of availability.

New section 429(c) would identify the Defense intelligence elements to which the new section 429 would apply.

Budget Implications: None. This proposal would enable Defense intelligence elements to manage funds more efficiently.
Changes to Existing Law: This proposal would amend title 10, United States Code, by adding a new section 429 to chapter 21. The text of the new title 10 section is set forth in full in the proposal above.

Section 902 would add the National Defense Intelligence College (NDIC) to the coverage of subsection (a)(1) of section 2154 of the 10, United States Code, providing for Phase I of joint professional military education (JPME). In doing so, this proposal would recognize that the NDIC provides a joint professional military education to its primary military student population of junior officers and senior non-commissioned officers.

The NDIC provides the rigorous and thorough instruction and examination of officers of the Armed Forces in an environment designed to promote a theoretical and practical in-depth understanding of joint matters. The NDIC program of study covers all of the elements of JPME Phase I (as specified in 10 U.S.C. 2154 (a)), which means that, in addition to the principal curriculum taught to all officers at this joint intermediate level school, the curriculum includes:

(1) National Military Strategy.
(2) Joint planning at all levels of war.
(3) Joint doctrine.
(4) Joint command and control.
(5) Joint force and joint requirements development.

Therefore, military graduates of the NDIC's program of study should be credited with having successfully completed JPME Phase I.

Budget Implications: The proposal has no budgetary impact as it seeks to authorize additional, and well-deserved, accreditation for an existing educational program.

Changes to Existing Law: This proposal would amend title 10, United States Code, as follows:

§ 2151. Definitions

(a) JOINT PROFESSIONAL MILITARY EDUCATION.—Joint professional military education consists of the rigorous and thorough instruction and examination of officers of the armed forces in an environment designed to promote a theoretical and practical in-depth understanding of joint matters and, specifically, of the subject matter covered. The subject matter to be covered by joint professional military education shall include at least the following:

(1) National Military Strategy.
(2) Joint planning at all levels of war.

(3) Joint doctrine.
(4) Joint command and control.
(5) Joint force and joint requirements development.

(b) OTHER DEFINITIONS.—In this chapter:
(1) The term "senior level service school" means any of the following:
(A) The Army War College.
(B) The College of Naval Warfare.
(C) The Air War College.
(D) The Marine Corps War College.
(2) The term "intermediate level service school" means any of the following:
(A) The United States Army Command and General Staff College.
(B) The College of Naval Command and Staff.
(C) The Air Command and Staff College.
(D) The Marine Corps Command and Staff College.
(3) The term "joint intermediate level school" includes the National Defense Intelligence College.

* * * * * * *

§ 2154. Joint professional military education: three-phase approach

(a) THREE-PHASE APPROACH.—The Secretary of Defense shall implement a three-phase approach to joint professional military education, as follows:

(1) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as Phase I instruction, consisting of all the elements of a joint professional military education (as specified in section 2151 (a) of this title), in addition to the principal curriculum taught to all officers at an intermediate level service school or at a joint intermediate level school.

(2) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as Phase II instruction, consisting of a joint professional military education curriculum taught in residence at—
(A) the Joint Forces Staff College;
(B) a senior level service school that has been designated and certified by the Secretary of Defense as a joint professional military education institution; or

(3) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as the Capstone course, for officers selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) and offered in accordance with section 2153 of this title.

(b) SEQUENCED APPROACH.—The Secretary shall require the sequencing of joint professional military education so that the standard sequence of assignments for such education requires an officer to complete Phase I instruction before proceeding to Phase II instruction, as provided in section 2155 (a) of this title.

Subtitle B—Space Activities

Section 911. Section 941 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364; 120 Stat. 2364), entitled "Department of Defense Policy on Unmanned Systems", requires the Secretary of Defense to develop a policy, applicable throughout the Department of Defense, on research, development, test and evaluation, procurement, and operation of unmanned systems. While the intent of the statute is desirable, key items within the language inadvertently create a burden in terms of cost and schedule in the conduct of development, test and evaluation, and procurement of unmanned systems. The proposed language submitted above seeks to satisfy the intent of current law, while avoiding the likely schedule delays and cost increases.

Mission identification, research, development, test and evaluation, procurement, and operation of unmanned systems can be accommodated through existing Department of Defense (DOD) policies: Chairman of Joint Chiefs of Staff Instruction 3170.01G, "Joint Capabilities Integration and Development System (JCIDS)", Department of Defense Directive 5000.1, "The Defense Acquisition System", and Department of Defense Instruction 5000.2, "Operation of the Defense Acquisition System." JCIDS is the policy that guides requirements analysis and identification. The Department of Defense Directive and Instruction guide technology and system development, and system procurement, operation and sustainment. A policy as described above enables the Department to meet the intent of the current law through implementation of the existing JCIDS and DOD 5000 processes.

The primary objective of JCIDS is to identify the capabilities required to successfully execute the Department of Defense missions. The requirements process supports the acquisition process by providing validated capabilities requirements and associated performance criteria to be used as a basis for acquiring the right weapon systems. Additionally, it provides the budgeting process with prioritization and affordability advice. The proposed language supports this impartial process of acquiring the optimal systems, consistent with the urgency of warfighter needs, technical considerations and fiscal responsibility.

Current law requires a preference for unmanned systems in acquisition programs for new systems, and requires certification that an unmanned system is incapable of meeting program requirements. This language potentially imposes cost and schedule burdens. Because it does not allow for consideration of development and ownership costs, it forces the DOD to procure a system that may be more expensive to develop and operate than a manned system which is equally or more effective and provides the same or more protection to service members. It can

also potentially delay the DOD's ability to satisfy a capability gap because of the time required to mature unmanned technologies. Conducting the Certification automatically adds to the cost and time needed to initiate all new DOD acquisitions (whether manned or unmanned).

Requiring a preferred materiel solution undermines the integrity of the JCIDS process which mandates rigorous assessment and analysis before a decision is made about what materiel solution to pursue in satisfying identified mission requirements. The Capability Based Assessment (CBA) provides the analytical underpinnings of the Initial Capability Document (ICD). The ICD supports the Material Development Decision where the Milestone Decision Authority may accept the CBA as adequate or direct additional analysis.

Current law requires the submittal of a report to the Congressional defense committees. It is the Department's position that such a report is unnecessary and that, instead of this report, an Unmanned Systems Roadmap be developed. The Roadmap would address the establishment of programs to address technical, operational, and production challenges, and gaps in capabilities, with respect to unmanned systems. This would enable a portfolio management strategy for unmanned systems, by ensuring funding investments are linked to requirements validated through the JCIDS process.

Budget Implications: This section has no direct budget implications, as the proposed legislative language deals with the process of good systems engineering, and the implementation of the Department of Defense Joint Capabilities Integration and Development System (JCIDS). However, the proposed change will allow the most cost effective solution, whether manned or unmanned, be selected, and indirectly have a positive effect on the overall budget.

Changes to Existing Law: This proposal would make the following changes to section 941 of the John Warner National Defense Authorization Act for Fiscal Year 2007:

SEC. 941. DEPARTMENT OF DEFENSE POLICY ON <u>MANNED AND</u> UNMANNED SYSTEMS.

(a) POLICY REQUIRED.—The Secretary of Defense shall develop a policy, to be applicable throughout the Department of Defense, ~~on~~ <u>for the conduct of</u> research, development, test and evaluation, ~~procurement, and operation~~ <u>and for the conduct of procurement, of</u> manned and unmanned systems <u>in a manner that is fiscally responsible and enhances war fighter capability</u>.

(b) ELEMENTS.—The policy required by subsection (a) shall include or address the following:

(1) ~~An identification of missions and mission requirements, including mission requirements for the military departments and joint mission requirements, for which unmanned systems may replace manned systems.~~ <u>An identification of those Department of Defense capabilities for which manned and unmanned systems may address potential needs.</u>

(2) ~~A preference for unmanned systems in acquisition programs for new systems, including a requirement under any such program for the development of a manned system for a certification that an unmanned system is incapable of meeting program requirements.~~ <u>A thorough and objective consideration of the acquisition of manned and</u>

unmanned systems whenever a new system is to be acquired to meet a capability requirement.

(3) An assessment of the circumstances under which it would be appropriate to pursue joint development and procurement of unmanned systems and components of unmanned systems.

(4) The transition of unmanned systems unique to one military department to joint systems, when appropriate.

(5) An organizational structure for effective management, coordination, and budgeting for the development and procurement of unmanned systems~~, including an assessment of the feasibility and advisability of designating a single department or other element of the Department of Defense to act as executive agent for the Department on unmanned systems~~.

(6) The integration of unmanned and manned systems to enhance support of the ~~missions~~ capabilities identified in paragraph (1).

(7) Such other matters that the Secretary of Defense considers to be appropriate.

(c) ROADMAP.—The Secretary of Defense shall prepare and update periodically a roadmap for the policy required by subsection (a) that includes—

(1) goals for the development of unmanned system technologies to address capabilities identified pursuant to subsection (b)(1); and

(2) plans to address technical, operational, and production challenges, and gaps in capabilities, with respect to unmanned systems.

(~~c~~d) CONSULTATION.—The Secretary of Defense shall develop the policy required by subsection (a), and implement the roadmap required by subsection (c), in consultation with the Chairman of the Joint Chiefs of Staff.

~~(d) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report containing—~~

~~(1) the policy required by subsection (a); and~~

~~(2) an implementation plan for the policy that includes—~~

~~(A) a strategy and schedules for the replacement of manned systems with unmanned systems in the performance of the missions identified in the policy pursuant to subsection (b)(1);~~

~~(B) establishment of programs to address technical, operational, and production challenges, and gaps in capabilities, with respect to unmanned systems; and~~

~~(C) an assessment of progress towards meeting the goals identified for the subset of unmanned air and ground systems established in section 220 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–38).~~

(e) UNMANNED SYSTEMS DEFINED.—In this section, the term "unmanned systems" consists of unmanned aerial systems, unmanned ground systems, and unmanned maritime systems.

TITLE X—GENERAL PROVISIONS

Section 1001 would repeal section 226 of title 10, United States Code. That section requires the Director of the Office of Management and Budget (OMB) and the Director of the Congressional Budget Office (CBO) to provide Congress with a joint report, no later than April 1 of each year, containing an agreed-upon resolution of all differences between the technical assumptions used by OMB and CBO in preparing the estimates with respect to all accounts in function 050 (national defense) for the budget to be submitted to Congress in the following year. If the two Directors are unable to agree upon any technical assumption, the report reflects the use of averages of the relevant account rates used by the two offices.

This report is unnecessary because it largely duplicates information already provided in the President's Budget. Furthermore, OMB and CBO already work together to reconcile outlay estimates and regularly alert Congress to where outlay estimates differ.

Section 1002. Section 1011(c) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) ("section 1011") currently provides that the Navy may donate the ex-JOHN F KENNEDY for use as a public museum/memorial, including transfer of title to the donee, provided that the transfer contract includes a requirement that the ship be returned to the Government in the event the ship is needed for a national emergency.

The Navy's security classification of certain passive protection features in the structure of the ex-JOHN F KENNEDY will prevent the ship from being donated in its current, unmodified configuration. These passive protection features on the ex-JOHN F KENNEDY are common to aircraft carriers currently in-service. Donation of the ship without the necessary security modifications to prevent the public from gaining access to, and detailed knowledge of, these passive protection features represents an unacceptable security risk. Without the security modifications, touring visitors and the donee's maintenance staff could obtain knowledge of the Navy's passive protection features on the ex-JOHN F KENNEDY and other active-duty ships.

Consequently, prior to donation, the Navy must mitigate the security risk by physically reconfiguring and/or permanently closing certain spaces on the ship. The nature of the mitigation work cannot be discussed in an unclassified forum. The required physical changes are effectively irreversible, because the high cost to reverse defeats the intent of Congress that the ship be returned to the Navy in a condition that would allow for reactivation as a fighting warship in the event of a national emergency.

Thus, the requirement in subsection (c)(2) of section 1011 that, if donated, the ship be returned to the Navy in event of a national emergency, must be deleted to allow the Navy to make the ship available for donation as a public museum or memorial. This proposal would clear a barrier for the Secretary of the Navy to donate the ex-JOHN F KENNEDY following completion of the mitigation work. There is interest in the ex-JOHN F KENNEDY from two organizations.

Budget Implications: The Department of Defense estimates the cost to accomplish the armor

and side protection mitigation work at $6 million and is included in the fiscal year (FY) 2014 amount identified in the FY 2012 budget submission. This would be funded from the Navy's Operations and Maintenance (O&MN) accounts. If ex-JOHN F KENNEDY is not viable for donation transfer, the Department of the Navy would budget for the cost of dismantling. The Navy currently has six other CVs waiting to be dismantled or donated and made available as a public museum/memorial.

RESOURCE REQUIREMENTS JFK HULL MITIGATION WORK REQUIRED PRIOR TO DONATION ($MILLION)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
O&MN			6.000			2B2G	BA-2	22G10
Total			6.000			-		

Cost Methodology: The cost estimate to accomplish the armor and side protection mitigation work is based on an engineering study of the specific classified design features that must be mitigated by physical reconfiguration and/or permanent closure of certain spaces on the ship.

Changes to Existing Law: This proposal would make the following change to section 1011 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub.L. 109-364):

SEC. 1011. AIRCRAFT CARRIER FORCE STRUCTURE.

(a) ***

* * * * * * *

(c) CONDITIONS ON STATUS OF U.S.S. JOHN F. KENNEDY IF RETIRED.—Upon the retirement from operational status of the U.S.S. John F. Kennedy (CV-67), the Secretary of the Navy—

(1) while the vessel is in the custody and control of the Navy, shall maintain that vessel in a state of preservation (including configuration control, dehumidification, cathodic protection, and maintenance of spares) that would allow for reactivation of that vessel in the event that the vessel was needed in response to a national emergency; and

(2) if the vessel is transferred from the custody and control of the Navy, may, notwithstanding paragraph (1), demilitarize the vessel in preparation for the transfer. ~~shall require as a condition of such transfer that –~~

~~(A) if the President declares a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), the transferee shall, upon request of the Secretary of Defense, return the vessel to the United States; and~~

~~(B) in such a case (unless the transferee is otherwise notified by the Secretary), title to the vessel shall revert immediately to the United States.~~

Section 1003 would amend Part IV of Subtitle C of title 10, United States Code, by inserting after chapter 667 a new chapter authorizing the Secretary of the Navy to maximize the

safety and effectiveness of Navy, Joint, NATO, and coalition forces by collection of marine weather and ocean data, modeling of that data, and forecasting of potentially hazardous meteorological and oceanographic conditions. This proposal would also support the mapping and charting authorities of the National Geospatial-Intelligence Agency (NGA), which are in 10 U.S.C. 441-467.

Marine data collection means gathering of meteorological and oceanographic information in the marine, estuarine, and riverine environments that could be used to enhance the safety and/or operational effectiveness of U.S., NATO, and coalition forces.

Hydrographic information includes the measurement of the depth and other physical characteristics of the ocean, coastal waters, navigable rivers, and measurements of the interactions between those waters and the shoreline.

The new title 10 section would authorize the Secretary of the Navy to employ the significant Navy capabilities to provide maritime surveillance, warning, and hazard avoidance in support of U.S., Joint, NATO and coalition vessels, aircraft, forces, and infrastructure ensuring resource protection and energy efficiency, both afloat and ashore. Additionally, these maritime surveillance, warning and hazard avoidance capabilities can reduce unnecessary wear on vessels and aircraft, allowing units to avoid damage and extend service life. These capabilities are unique to the Navy within the Department of Defense. Without this authority, U.S., Joint, NATO and coalition vessels, aircraft, and forces would be susceptible to using unreliable, non-standard and non-relevant data, information, and knowledge from unverified, non-DOD sources which would put the safety of these assets at risk.

The new title 10 section would also authorize the Secretary of the Navy to employ the unique Navy capabilities of collecting hydrographic information in support of the NGA's safety of navigation mission. The Navy has a wide range of hydrographic collection capabilities ranging from small-footprint, time-critical hydrographic data collection assets capable of short-notice, world-wide deployment to wide-area, littoral and deep ocean hydrographic data collection platforms. These capabilities are valuable tools in the national response to both domestic and international disasters as well as providing safe access for U.S., NATO, and coalition vessels to foreign ports. Additionally, joint hydrographic data collection with partner nations provides an opportunity to build partner nation capabilities while enhancing international relationships. Without this authority, NGA would be forced to seek alternative sources for the collection and provision of reliable and relevant hydrographic data and U.S., NATO; coalition vessels could be forced to use non-standard or out-of-date navigation data from external sources increasing risk to operations.

Budget Implications: This proposal has no new budgetary impacts. The infrastructure and procedures to provide oceanographic and meteorological support that would be authorized by this language for non-DoD forces are already in place for support provided to DoD and allied forces. Estimated costs for this support include 1.5 Full-Time Employees (FTE), funds for travel and per diem, and communication costs.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Navy	0.375	0.388	0.402	0.415	0.430	O&M,N	01	1C5C
Total	0.375	0.388	0.402	0.415	0.430			

Changes to Existing Law: This proposal would add a new chapter and section to Subtitle C Part IV of title 10, United States Code. The text of the new chapter is shown in the legislative proposal above.

Section 1004. Section 1080 of the National Defense Authorization Act for Fiscal Year-2008 (P. L. 110-181), amended Public Law 46, chapter 105, to excuse Department of Defense activities from the general requirement that reimbursements for fire protection services rendered pursuant to Public Law 46, chapter 105 be "covered into the Treasury as miscellaneous receipts." Instead, in the case of DoD activities, the funds are to be "credited to the appropriation fund or account from which the expenses were paid." By operation of this language, reimbursements take on the fiscal life of the funds that were originally expended.

Many DoD installations, especially in the western United States, include vast expanses of undeveloped land vulnerable to wildfire. Mutual aid agreements under the Reciprocal Fire Protection Act ensure that resources will be available in the event of a large-scale fire that outstrips a military installation's fire suppression resources. These mutual aid agreements also are essential tools for battling regional wildfires such as those that struck California in the fall of 2007. Unfortunately, because the reimbursement process can be lengthy, and typically is beyond DoD control, DoD activities that join the fight in time of crisis have had to forfeit the reimbursement for their services because "the appropriation fund or account from which the expenses were paid for" has expired.

Pub. L. No. 110-181, § 1080, 122 Stat. 335, subsection (b) reads as follows:

(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.

This proposed amendment of section 1856d(b) would ensure that reimbursements under the Reciprocal Fire Protection Act are not expired at the time of reimbursement to the command that provided the fire protection services. The substituted language would merge the reimbursed funds with those in the current appropriation, fund, or account, which is used for DoD fire protection services.

This proposed amendment would also further the intended result of the FY2008 NDAA amendment. The purpose of that amendment was to encourage mutual fire support with surrounding communities without financially penalizing commands for providing such support. The law as amended in the FY2008 NDAA provides some relief by allowing commands to retain reimbursements for fire protection services; however, in some instances it fails to maximize the utility and benefit of such reimbursements to the command. When services are provided in one fiscal year and reimbursement occurs in a subsequent fiscal year, the reimbursements are not available for current year obligations to re-charge the fire fighting resources of the command that provided the services. The funds are expired. This proposed amendment will authorize treating reimbursements for firefighting services identical to the appropriation, fund, or account used to provide firefighting services in the current fiscal year. This will allow commands to maximize the resources available for fire protection services regardless of when reimbursement occurs relative to the fiscal year when the services were rendered.

Budget Implications: This proposal will not change any budgetary figures and seeks only to clarify and improve legislative language that already exists in order to better meet the Congressional intent behind that language. Historically there has been great variation from year to year in the amount of money that was provided to the Department of the Navy by non-federal entities as reimbursement for fire protection services that were provided in a previous fiscal year and thus had to be deposited into the general fund (miscellaneous receipts account) with the Treasury. The most costly years had late reimbursements nearing $500 thousand, so at most it appears this authority would permit the utilization of this amount of reimbursement.

RESOURCE REQUIREMENTS ($ MILLIONS)								
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Appropriation From	Budget Activity	Dash-1 Line Item
Est. Non-Federal Reimbursements, Navy	.500	.500	.500	.500	.500	O&M,N	01	BSS1

Changes To Existing Law: The proposal would amend section 5 of the Act of May 27, 1955 (42 U.S.C. 1856d) as follows:

SEC. 5. (a) Funds available to any agency head for fire protection on installations or in connection with activities under the jurisdiction of such agency may be used to carry out the purposes of this subchapter. All sums received by any agency head for fire protection rendered pursuant to this subchapter shall be covered into the Treasury as miscellaneous receipts.

(b) Notwithstanding ~~the provisions of~~ subsection (a), all sums received ~~for any~~ as reimbursement for costs incurred by any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the same appropriation or fund ~~or account~~ from which the expenses were paid or, if the period of availability for obligation for that appropriation

has expired, to the appropriation or fund that is currently available to the activity for the same purpose. Amounts so credited shall be subject to the same provisions and restrictions as the ~~merged with funds in such~~ appropriation ~~fund~~ or account to which credited. ~~and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged~~.

Section 1005 would repeal the requirement for the Secretary of the Air Force to maintain a strategic airlift aircraft inventory of 316 aircraft. It would also correspondingly change the certification requirement in section 137 of the National Defense Authorization Act for Fiscal Year 2010.

In 2008, the Secretary of Defense directed the United States Transportation Command and Office of the Secretary of Defense, Capability Assessment and Program Evaluation to conduct a mobility study identifying the capabilities and requirements needed to support the National Military Strategy (NMS). The resulting study, Mobility Capabilities and Requirements Study 2016 (MCRS-16), used the 2009 President's Budget (PB) force structure, updated with pertinent 2010 PB changes, to evaluate the Department of Defense's ability to fulfill NMS mobility needs for the year 2016. Based on this force structure, MCRS-16 assessed the mobility system's performance by examining how force closures, *i.e.*, the ability to transport people and materiel to combat, support the achievement of U.S. campaign objectives. MCRS-16 analysis identified an excess capacity in the Air Force's strategic airlift aircraft inventory. MCRS-16 confirmed that a reduction of the strategic airlift fleet to 299 aircraft would achieve the calculated peak demand of 32.7 Million Ton Miles/Day.

In conjunction with MCRS-16 findings, the Air Force plans to retire 22 C-5As during fiscal year (FY) 2011 and FY 2012, which would reduce the Air Force C-5A fleet below 111 and the strategic airlift aircraft fleet below 316. Accordingly, this plan for FY 2012 requires relief from the statutory minimum of 316 total strategic airlift aircraft.

Section 137(d)(3) prevents the Secretary of the Air Force from retiring a C-5 aircraft until the Secretary certifies that the retirement of such aircraft will not increase the operational risk of meeting the National Defense Strategy and that the retirement of such aircraft will not reduce the total strategic airlift force structure below 316 strategic airlift aircraft. Thus, this legislative proposal likewise would amend section 137(d)(3) to eliminate the certification requirement as it pertains to the number of aircraft.

Budget Implications: If restricted from retiring the 22 C-5As, the Air Force would face unbudgeted costs in the form of program depot maintenance (PDM) and unit level maintenance to keep the aircraft flyable. PDM costs are based on projected depot inputs. The Air Force will conduct an engineering assessment to further refine the minimum levels of maintenance needed to sustain the aircraft in serviceable, flyable condition. Preliminary annual maintenance cost avoidance is reflected in the following table:

Preliminary Annual Maintenance Cost Avoidance ($M)									
FY11	**FY12**	**FY13**	**FY14**	**FY15**	**FY16**	**FYDP**	**Appropriation**	**Budget Activity**	**Line Item**
79.9	193.8	79.1	118.7	0	0	471.5	3840 O&M	01	01-011M
0.29	0.29	0.29	0.29	0.29	0.29	1.74	3840 O&M	01	01-011F
17.3	77.5	118.7	80.8	0	0	294.3	3740 O&M	01	1F-011M
0.348	0.348	0.348	0.348	0.348	0.348	2.088	3740 O&M	01	1F-011A
97.838	**271.938**	**198.438**	**200.138**	**0.638**	**0.638**	**769.628**	**Total Cost Avoidance**		

Changes to Existing Law: This proposal would strike subsection (g) of section 8062 of title 10, United States Code, and make the following changes to section 137 of the National Defense Authorization Act for FY 2010:

§ 8062. Policy; composition; aircraft authorization

* * * * * * *

~~(g)(1) Effective October 1, 2009, the Secretary of the Air Force shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 316 aircraft.~~

~~(2) In this subsection:~~

~~(A) The term "strategic airlift aircraft" means an aircraft—~~

~~(i) that has a cargo capacity of at least 150,000 pounds; and~~

~~(ii) that is capable of transporting outsized cargo an unrefueled range of at least 2,400 nautical miles.~~

~~(B) The term "outsized cargo" means any single item of equipment that exceeds 1,090 inches in length, 117 inches in width, or 105 inches in height.~~

———————

SEC. 137. LIMITATION ON RETIREMENT OF C-5 AIRCRAFT.

(a) LIMITATION.—***

* * * * * * *

(d) ADDITIONAL LIMITATIONS ON RETIREMENT OF AIRCRAFT.—The Secretary of the Air Force may not retire C–5 aircraft from the active inventory as of the date of the enactment of this Act until the later of the following:

(1) The date that is 90 days after the date on which the Director of Operational Test and Evaluation submits the report referred to in subsection (a)(2)(B).

(2) The date that is 90 days after the date on which the Secretary submits the report required under subsection (e).

(3) The date that is 30 days after the date on which the Secretary certifies to the congressional defense committees that—

~~(A)~~ the retirement of such aircraft will not increase the operational risk of meeting the National Defense Strategy.~~; and~~

~~(B) the retirement of such aircraft will not reduce the total strategic airlift force structure below 316 strategic airlift aircraft.~~

* * * * * * *

Section 1006 would rename the Industrial College of the Armed Forces as the Dwight D. Eisenhower School for National Security and Resource Strategy.

The Industrial College of the Armed Forces (ICAF) has served the Nation for over 83 years preparing military officers, civilian government officials, and others for leadership and executive positions in the field of national security. Established in 1924 in the aftermath of America's mobilization difficulties in World War I, its predecessor, the Army Industrial College, focused on wartime procurement and mobilization procedures. Bernard M. Baruch, who was a prominent Wall Street speculator and Chairman of the War Industries Board, is regarded as one of the founding fathers.

With a unique and defining mission, the Army Industrial College rapidly expanded. The College was closed during World War II and then re-opened two years later in 1943 in the Pentagon. Before World War II ended, senior Army officers supported the concept of a joint war college. In 1946, the name of the College changed to the Industrial College of the Armed Forces. ICAF moved to Fort NcNair, near the newly-founded National War College, and began the 10-month course. In 1948, Secretary of Defense James V. Forrestal removed the College from the Army's jurisdiction and formally reconstituted it "as a joint educational institution under the direction of the Joint Chiefs of Staff."

During the Cold War, the "character" of ICAF changed dramatically. As the United States found itself increasingly involved in Vietnam, ICAF shifted to educating leaders to manage logistical resources in such conflicts, as opposed to focusing on national industrial mobilization.

In 1976, ICAF became part of the newly established National Defense University (NDU). In response to the Goldwater-Nichols Defense Reorganization Act of 1986, which called for substantially increased attention to joint military education, ICAF continued to expand its curriculum by adding an acquisition course. After the passage of the Defense Acquisition Workforce Improvement Act, the Chairman of the Joint Chiefs of Staff gave responsibility to ICAF to educate the Senior Acquisition Corps (military and civilian) of all Services and the

Department of Defense. In 1993, Congress passed legislation authorizing the Industrial College to award Master's degrees, starting with the graduates of the Class of 1994; its academic program was accredited by the Middle States Association in 1995.

Today, the mission of ICAF is to prepare selected military officers and civilians for strategic leadership and success in developing our national security strategy and in evaluating, marshalling and managing resources in the execution of that strategy. The rigorous, compressed curriculum leads to a Master of Science degree in National Resource Strategy.

The name Industrial College of the Armed Forces has become somewhat dated. While the 20th century is fairly characterized as being a part of the Industrial Age, the 21st century promises to be less driven by industrial concepts and more influenced by information and networked organizations and decision making. In addition to military officers, the student body and faculty composition of the College has increasingly become more diverse. Today, there are Department of Defense (DoD) and other Executive Branch, International officers and Industry Fellows at ICAF. ICAF is much more than a joint professional military education (JPME) college for the Armed Forces officer. Consistent with the last two Quadrennial Defense Reviews, ICAF is becoming an institution where national security strategy and resource issues are addressed in Joint and a "whole of government" context.

ICAF is the only senior-level DoD Joint Professional Military Education institution that has, at its core, the intersection of Government, military, interagency, industry, business, economics, logistics, academia and international partners. Many of NDU's stakeholders and interlocutors have expressed the view that the legacy connotation of "Industrial" limits the school's scope, culture and potential, relegating it to "being locked into the fifties". These limits are especially acute with our modern industry and civilian academic partners; because of the moniker, our uniformed officers predispose subordination to other senior-level educational institutions.

Why the Eisenhower School? The pedigree NDU seeks with the renaming effort is akin to the Kennedy School at Harvard or the Wilson School at Princeton -- an institution for advanced studies of the intersection of the elements of national power. Dwight D. Eisenhower is universally recognized as the ICAF's most distinguished graduate as an alumnus of the Army Industrial College class of 1933 and instructor at the College for four years. As President, 5-star General, Allied Commander, Industrialist, Logistician, Instructor and Student he embodies the very spirit of the institution.

As the NDU Eisenhower School, the core JPME mission would not change, but the Education, Research and Outreach already being performed would be better branded and aligned to serve the Nation in the 21st century.

Budget Implications: There are no budget implications to appropriated funding for this request, the rationale being that the name change would not require additional funding for the National Defense University or the College. There are no budgetary impacts from the name change outside of NDU either. All graphics, design, redesign and production would be completed using

existing employees and systems. Even accounting for those items that are sent off the installation, and currently covered by the existing ICAF budget, would utilize graphic designs, redesigns, and computer graphics provided by the NDU graphics department. Additionally, there are no associated software upgrades required.

Changes to Existing Law: This proposal would make the following changes to 10 U.S.C 2165(b)(2):

§ 2165. National Defense University: component institutions

(a) * * *

(b) COMPONENT INSTITUTIONS.—The National Defense University consists of the following institutions:

(1) The National War College.

(2) The ~~Industrial College of the Armed Forces~~ Dwight D. Eisenhower School for National Security and Resource Strategy.

(3) The Joint Forces Staff College.

(4) The Institute for National Strategic Studies.

(5) The Information Resources Management College.

(6) Any other educational institution of the Department of Defense that the Secretary considers appropriate and designates as an institution to the University.

* * * * *

TITLE XI—CIVILIAN PERSONNEL MATTERS

Section 1101 would amend section 8102a of title 5, United States Code, to allow civilian employees to designate anyone they choose to receive the entirety of a death gratuity if the employee dies of injuries incurred in connection with service with an armed force in a contingency operation. Currently, section 8102a restricts employees from designating more than 50 percent of a death gratuity to go to unrelated persons.

This proposal would provide parity with the beneficiaries of Service members who, in accordance with section 1477 of title 10, U.S.C., may receive 100 percent of a death gratuity, regardless of the relationship to the decedent. By differentiating between beneficiaries designated by civilian employees and those designated by Service members, the current law creates a false distinction in the loss suffered by their respective survivors.

Budget Implications: Given the past Civilians Killed in Action within each Service from fiscal year (FY) 2004 - 2009; the average was calculated and given for each Service as a baseline calculation for the estimated projected cost per FY through FY 2016.

RESOURCE REQUIREMENTS ($ MILLIONS)								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	$0.2	$0.2	$0.2	$0.2	$0.2	OCO Operation and Maintenance, Army	BA4	SAG436
Air Force	$0.1	$0.1	$0.1	$0.1	$0.1	OCO Operation and Maintenance, Air Force	BA4	042A
Total	$0.3	$0.3	$0.3	$0.3	$0.3			

NUMBER OF PERSONNEL AFFECTED								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	2	2	2	2	2	OCO Operation and Maintenance, Army	BA4	SAG436
Air Force	1	1	1	1	1	OCO Operation and Maintenance, Air Force	BA4	042A
Total	3	3	3	3	3			

Changes to Existing Law: This proposal would amend 5 U.S.C. 8102a as follows:

§ 8102a. Death gratuity for injuries incurred in connection with employee's service with an armed force

(a) DEATH GRATUITY AUTHORIZED.—The United States shall pay a death gratuity of up to $100,000 to or for the survivor prescribed by subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation.

* * * *

(4) Beginning on the date of the enactment of this paragraph, a person covered by this section may designate another person to receive ~~not more than 50 percent of the~~ an amount payable under this section. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments ~~up to the maximum of 50 percent~~, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with subparagraphs (A) through (E) of paragraph (1).

(5) If a person entitled to all or a portion of a death gratuity under paragraph (1) or (4) dies before the person receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by paragraph (1).

(6) If a person covered by this section has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under this section, the head of the agency, or other entity, in which that person is employed shall provide notice of the designation to the spouse.

(e) DEFINITIONS.—(1) The term "contingency operation" has the meaning given to that term in section 1482a(c) of title 10, United States Code.

(2) The term "employee" has the meaning provided in section 8101 of this title, but also includes a nonappropriated fund instrumentality employee, as defined in section 1587(a)(1) of title 10.

Section 1102 would amend 32 U.S.C. 709(e) to clearly include all Dual Status and Non-dual Status Civilian Technicians of the National Guard in the Excepted Service and thus would provide for a single personnel system that has The Adjutants General of the States "employ and administer." Currently, the National Guard uses the Excepted Service procedures to hire Dual Status Technicians and the Office of Personnel Management's Competitive procedures to hire Non-dual Status Technicians. Combining the Dual Status technicians and the Non-dual Status Technicians under the Excepted Service would result in a cost savings for the National Guard both in terms of direct and indirect costs.

Budget Implications: This proposal would not change the pay, grade or benefits provided to any National Guard technician. This proposal would only change the system under which the National Guard Non-dual Status technicians are hired, from the competitive system to the excepted system that all National Guard Dual Status technicians are hired under.

RESOURCE REQUIREMENTS ($ MILLIONS)								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0	P&A	N/A	N/A
Navy	N/A	N/A	N/A	N/A	N/A	P&A	N/A	N/A
AF	0	0	0	0	0	P&A	N/A	N/A
Total	0	0	0	0	0	P&A	N/A	N/A

NUMBER OF PERSONNEL AFFECTED								
Service	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	1,600	1,600	1,600	1,600	1,600	P&A	N/A	N/A
Navy	0	0	0	0	0	P&A	N/A	N/A
Marine Corps	0	0	0	0	0	P&A	N/A	N/A
AF	350	350	350	350	350	P&A	N/A	N/A
Total	1,950	1,950	1,950	1,950	1,950	P&A	N/A	N/A

Changes to Existing Law: This proposal would amend section 709(e) of title 32, United States Code, as follows:

§ **709. Technicians: employment, use, status**

(a) ***

****

(e) A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a A position authorized by this section is outside the competitive service if the technician employed in that position is required under subsection (b) to be a member of the National Guard.

****

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS [RESERVED]

TITLE XIII—OTHER AUTHORIZATIONS

Subtitle A—Military Programs

Section 1301 would authorize appropriations for the Defense Working Capital Funds in the amount equal to the budget authority requested in the President's Budget for fiscal year 2012.

Section 1302 would authorize appropriations for the National Defense Sealift Fund in the amount equal to the budget authority requested in the President's Budget for fiscal year 2012 and would authorize the Secretary of the Navy to procure an Offshore Petroleum Distribution System in fiscal year 2012.

Section 1303 would authorize appropriations for the Joint Urgent Operational Needs Fund in the amount equal to the budget authority requested in the President's Budget for fiscal year 2012.

Section 1304 would authorize appropriations for Chemical Agents and Munitions Destruction, Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012.

Section 1305 would authorize appropriations for Drug Interdiction and Counter-Drug Activities, Defense-Wide in the amount equal to the budget authority requested in the President's Budget for fiscal year 2012.

Section 1306 would authorize appropriations for the Defense Inspector General in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012.

Section 1307 would authorize appropriations for the Defense Health Program in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012. In accordance with the provisions of section 1704 of the National Defense Authorization Act for Fiscal Year 2010, within the funds authorized for operation and maintenance under section1307(a)(1), subsection (b) of this section would authorize funds to be transferred to the Joint Department of Defense–Department of Veterans Affairs Medical Facility Demonstration Fund established by section 1704(a) of the National Defense Authorization Act for Fiscal Year 2010.

Subtitle B—Armed Forces Retirement Home

Section 1311 would authorize appropriations for fiscal year 2012 for the Armed Forces Retirement Home in the amount equal to the budget authority requested in the President's Budget for fiscal year 2012.

TITLE XIV—AUTHORIZATION OF APPROPRIATIONS FOR OVERSEAS CONTINGENCY OPERATIONS FOR FISCAL YEAR 2012

Sections 1401 through 1414 would authorize appropriations for Overseas Contingency Operations for fiscal year 2012 in amounts equal to the budget authority requested in the President's Budget for fiscal year 2012.