SEC. 548. SUPPORT FOR ATHLETIC PROGRAMS OF THE UNITED STATES MILITARY ACADEMY.

(a) IN GENERAL.—Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4362. Support of athletic and physical fitness programs

"(a) AUTHORITY.—

"(1) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary of the Army may enter into contracts and cooperative agreements with the Army West Point Athletic Association (Association) for the purpose of supporting the athletic and physical fitness programs of the Academy. Notwithstanding section 2304(k) of this title, the Secretary may enter such contracts or cooperative agreements on a sole source basis pursuant to section 2304(c)(5) of this title. Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property or services for the direct benefit or use of the Academy.

"(2) FINANCIAL CONTROLS.—(A) Before entering into a contract or cooperative agreement under paragraph (1), the Secretary shall ensure that such contract or agreement includes appropriate financial controls to account for Academy and Association resources in accordance with accepted accounting principles.

"(B) Any such contract or cooperative agreement shall contain a provision that allows the Secretary, at the Secretary's discretion, to review the financial accounts of the Association to determine whether the operations of the Association—

"(i) are consistent with the terms of the contract or cooperative agreement, and

"(ii) will not compromise the integrity or appearance of integrity of any program of the Department of the Army.

"(3) LEASES.—Section 2667(h) of this title shall not apply to any leases the Secretary may enter into with the Association for the purpose of supporting the athletic and physical fitness programs of the Academy.

"(b) SUPPORT SERVICES.—

"(1) AUTHORITY.—To the extent required by a contract or cooperative agreement under subsection (a), the Secretary may provide support services to the Association while the Association conducts its support activities at the Academy. The Secretary may provide support services as defined in paragraph (2) only if the Secretary determines that the provision of such services is essential for the support of the athletic and physical fitness programs of the Academy.

"(2) SUPPORT SERVICES DEFINED.—(A) In this subsection, the term 'support services' includes utilities, office furnishings and equipment, communications services, records staging and archiving, audio and video support, and security systems in conjunction with the leasing or licensing of property.

"(B) Such term includes—

"(i) housing for Association personnel on United States Army Garrison, West Point, New York; and

"(ii) enrollment of dependents of Association personnel in elementary and secondary schools under the same criteria applied to dependents of Federal employees under section 2164(a) of this title, except that educational services provided pursuant to this clause shall be provided on a reimbursable basis.

"(3) Any such support services may only be provided without any liability of the United States to the Association.

"(c) ACCEPTANCE OF SUPPORT.—

"(1) SUPPORT RECEIVED FROM THE ASSOCIATION.—Notwithstanding section 1342 of title 31, the Secretary may accept from the Association funds, supplies, and services for the support of the athletic and physical fitness programs of the Academy. For the purposes of this section, employees or personnel of the Association may not be considered to be employees of the United States.

"(2) FUNDS RECEIVED FROM NCAA.—The Secretary may accept funds from the National Collegiate Athletic Association to support the athletic and physical fitness programs of the Academy.

"(3) LIMITATION.—The Secretary shall ensure that contributions under this subsection and expenditure of funds pursuant to subsection (e) do not reflect unfavorably on the ability of the Department of the Army, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or compromise the integrity or appearance of integrity of any program of the Department of the Army, or any individual involved in such a program.

"(d) TRADEMARKS AND SERVICE MARKS.—

"(1) LICENSING, MARKETING, AND SPONSORSHIP AGREEMENTS.—An agreement under subsection (a) may, consistent with section 2260 of this title (other than subsection (d) of such section), authorize the Association to enter into licensing, marketing, and sponsorship agreements relating to trademarks and service marks identifying the Academy, subject to the approval of the Secretary of the Army.

"(2) LIMITATIONS.—No licensing, marketing, or sponsorship agreement may be entered into under paragraph (1) if—

"(A) such agreement would reflect unfavorably on the ability of the Department of the Army, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

"(B) the Secretary determines that the use of the trademark or service mark would compromise the integrity or appearance of integrity of any program of the Department of the Army, or any individual involved in such a program.

"(e) RETENTION AND USE OF FUNDS.—Any funds received by the Secretary under this section other than money rentals received for property leased pursuant to section 2667 of this title shall be used by the Academy for one or more of the following purposes:

"(1) To benefit participating cadets.

"(2) To enhance the ability of the Academy to compete against other colleges and universities.

Such funds shall remain available until expended.

"(f) SERVICE ON ASSOCIATION BOARD OF DIRECTORS.—The Association is a designated entity for which authorization under sections 1033(a) and 1589(a) of this title may be provided.

"(g) CONDITIONS.—The authority provided in this section with respect to the Association is available only so long as the Association continues to—

"(1) qualify as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 and operates in accordance with this section, the law of the State of New York, and the constitution and bylaws of the Association; and

"(2) operate exclusively to support the athletic and physical fitness programs of the Academy.

"(h) ASSOCIATION DEFINED.—In this section, the term 'Association' means the Army West Point Athletic Association.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4362. Support of athletic and physical fitness programs.".

Section-by-Section Analysis

This proposal would add section 4362 to title 10, United States Code, to authorize the Secretary of the Army to enter into contracts and cooperative agreements with the Army West Point Athletic Association ("Association") to support the athletic and physical fitness programs of the United States Military Academy (USMA). The new section would provide the Secretary authority similar to that provided to the Secretary of the Navy with respect to the United States Naval Academy in 10 U.S.C. 6981 and to the Secretary of the Air Force with respect to the United States Air Force Academy in 10 U.S.C. 9362.

Although the Association does not currently exist, we anticipate a group of USMA donors, primarily alumni, who have previously provided significant support USMA athletic programs to incorporate the Association in the State of New York as a nonprofit corporate entity with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

In addition to the Association's constitution and by-laws having to comply with the State of New York's laws and regulations governing non-profit organizations, the Association would have to comply with applicable Department of Defense and Army regulations regarding standards of conduct for private organizations. The Secretary will only exercise his authority under the proposal to enter into contracts or cooperative agreements with the Association once he is satisfied that the Association will operate in accordance with the appropriate standards of conduct applicable to non-profit, non-Federal entities engaging in business with the Department of the Army.

Subsection (a) of the proposed section 4362 would authorize the Secretary of the Army to enter into contracts or cooperative agreements with the Association to support the Academy's athletic and physical fitness programs, to enter into leases or licenses with the Association to support the Academy's athletic and physical fitness programs.

Additionally, subsection (a) would require the Secretary to ensure that contracts or agreements entered into under the authority of the proposed section 4362 include appropriate financial controls to account for Academy and Association resources using accepted accounting

principles. It would also require each contract or cooperative agreement to include a provision that allows the Secretary, at the Secretary's discretion, to review the financial accounts of the Association to determine if the Association's operations are both consistent with the terms of the contract or cooperative agreement and do not compromise the integrity (or appearance of integrity) of any Army program.

Subsection (b) would authorize the Secretary to provide certain support services to the Association. Compared to the other Service academies, USMA is relatively isolated. As such, if the Secretary determines that it is essential for the support of the athletic and physical fitness programs, the Secretary may authorize housing and enrollment in Department of Defense Education Activity schools (on a reimbursable basis) as support for the Association.

Subsection (c) would authorize the Secretary of the Army to accept funds, supplies, and services for the support of the athletic and physical fitness programs of USMA. Additionally, the Secretary would be authorized to accept funds from the National Collegiate Athletic Association to support USMA athletic programs.

Subsection (d) would permit the Association, subject to the approval of the Secretary of the Army, to enter into licensing, marketing, and sponsorship agreements relating to trademarks and service marks identifying USMA.

Subsection (e) would authorize the Army to retain funds that may be received under this section for use in support of USMA athletic programs.

Subsection (f) would designate the Association as an entity for which authorization under section 1033(a) and 1589(a) of title 10 is provided. As such, civilian employees and members of the Armed Forces could serve, without compensation, as directors, officers, or trustees, or otherwise participate in the management of the Association. Employees and members of the Armed Forces would not be authorized to participate in the day-to-day operations of the Association.

By entering contracts or cooperative agreements with the Association, the Army can more effectively support USMA's intercollegiate athletic program by capitalizing on the efficiencies of a non-profit, non-Federal entity. By allowing the Army to enter into a cooperative agreement with the Association, USMA would be able to spend money in a fiscally responsible manner while gaining efficiencies in the areas of, for example, facilities maintenance and transportation. This could represent an approximate 30 percent savings of appropriated fund dollars.

Budgetary Implications: The Athletic Director (AD) will be hired as an Association employee at no cost to the Government/Army. The cost of the salary of the AD will come from gift dollars donated by the West Point Association of Graduates (WPAOG) (a non-profit, non-Federal entity).

Currently, the AD is paid $157,100 as an NF-5 employee. The AD also runs a limited liability company for the WPAOG, for which the AD receives compensation. The total

compensation amount is approximately $600,000. Once this legislation is passed, the AD will no longer be an employee of the WPAOG. The AD's compensation, including all bonuses, incentives, and in-kind reimbursements, will be approximately $600,000. This amount is within the normal range of compensation of athletic directors of Division I schools. This represents a cost savings to the Government of the NAF salary, or approximately $157,000 per year. The WPAOG is committed to providing this money, and there is little if any risk that the Association will dissolve or decide to stop providing the contract salary. However, should the WPAOG decline to provide the money to pay the contract, the Athletic Director will simply be laid off, and the Deputy Athletic Director, an Army colonel, will be the acting Athletic Director until such time as another is hired.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	157	157	157	157	157	Non-Appropriated Fund	PRD# 80-01	NAF-5	
Total	157	157	157	157	157				

PERSONNEL AFFECTED									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	1	1	1	1	1	Non-Appropriated Fund	PRD# 80-01	NAF-5	
Total	1	1	1	1	1				

Changes to Existing Law: This proposal would add a new section to chapter 403 of title 10, United States Code, as shown above.