SEC. ___. MODIFICATION TO FORMS OF SUPPORT THAT MAY BE ACCEPTED IN SUPPORT OF THE MISSION OF THE DEFENSE POW/MIA ACCOUNTING AGENCY TO ACCOUNT FOR MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES LISTED AS MISSING.

(a) PUBLIC-PRIVATE PARTNERSHIPS.—Subsection (a) of section 1501a of title 10, United States Code, is amended by adding at the end the following new sentence: "An employee of an entity outside the Government that has entered into a public-private partnership, cooperative agreement, or a grant arrangement with, or in direct support of, the designated Defense Agency under this section shall be considered to be an employee of the Federal Government by reason of participation in such partnership, cooperative agreement, or grant, only for the purposes of section 552a of title 5 (relating to maintenance of records on individuals).".

(b) AUTHORITY TO ACCEPT GIFTS IN SUPPORT OF MISSION TO ACCOUNT FOR MISSING PERSONS FROM PAST CONFLICTS.—Such section is further amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(2) by inserting after subsection (d) the following new subsection (e):

"(e) ACCEPTANCE OF GIFTS.—

"(1) AUTHORITY TO ACCEPT.—Subject to subsection (f)(2), the Secretary may accept, hold, administer, spend, and use any gift of personal property, money, or services made on the condition that the gift be used for the purpose of facilitating accounting for missing persons pursuant to section 1501(a)(2)(C) of this title.

"(2) GIFT FUNDS.—Gifts and bequests of money accepted under this subsection shall be deposited in the Treasury in the Department of Defense General Gift Fund.

"(3) USE OF GIFTS.—Personal property and money accepted under this subsection may be used by the Secretary, and services accepted under this subsection may be performed, without further specific authorization in law.

"(4) EXPENSES OF TRANSFER.—The Secretary may pay all necessary expenses in connection with the conveyance or transfer of a gift accepted under this subsection.

"(5) EXPENSES OF CARE.—The Secretary may pay all reasonable and necessary expenses in connection with the care of a gift accepted under this subsection.

"(6) TREATMENT.—For the purposes of Federal income, estate, and gift taxes, any personal property, money, or services accepted under this subsection shall be considered as a gift, devise, or bequest to or for the use of the United States."; and

(3) by adding at the end of subsection (g), as redesignated by paragraph (1) of this section, the following new paragraph:

"(3) GIFT.—The term 'gift' includes a devise or bequest.".

(c) CONFORMING AMENDMENT.—Subsection (a) of such section is further amended by striking "subsection (e)(1)" and inserting "subsection (f)(1)".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text above would amend existing law.]

Section-by-Section Analysis

This proposal would amend chapter 76 of title 10, United States Code, to allow sharing of needed information with public-private partners who are assisting the Department of Defense in accounting for Department of Defense personnel missing from past conflicts to the same extent as is permitted with volunteers pursuant to 10 U.S.C. 1588, and to accept gifts that would be used to facilitate accounting for persons missing from designated past conflicts.

Congress and the Secretary of Defense have recognized that entering into public-private partnerships, cooperative agreements, and grant arrangements with non-Federal entities (NFEs) will greatly enhance the Department's ability to perform its personnel accounting mission. NFEs, including not-for-profit organizations, universities, and other groups offer useful resources and capabilities that can be leveraged to enhance all aspects of the Department's efforts to account for U.S. personnel unaccounted-for from past conflicts. Access to military records, such as the Individual Deceased Military Personnel Files, is almost always critical for NFEs that have entered into public-private partnerships, cooperative agreements, or grant arrangements to provide useful support or assistance to the Defense POW/MIA Accounting Agency (DPAA). Although NFEs and their employees who are supporting DPAA through a public-private partnership, cooperative agreement, or grant arrangement are similar to volunteers who may assist DoD under 10 U.S.C. 1588, DPAA may not share Privacy Act-protected information to the extent DPAA may with volunteers. Similar to volunteers, the part of this proposal that amends Section 1501a(a) would treat employees of those entities that are party to a public-private partnership, cooperative agreement, or grant arrangements with, or in support of, DPAA and their personnel, as employees of the Federal Government only for purposes of section 552a of title 5 (relating to maintenance of records on individuals).

The proposed amendment by subsection (b) would authorize the Secretary to accept gifts of personal property, services, and money made on the condition that the gift be used for the purpose of facilitating accounting for missing persons. This provision is similar to 10 U.S.C. Sections 2601 and other gift acceptance authorities (e.g., 10 U.S.C. Sections 2605, 2607, 2608, 2611 and 2612) which permit the Secretaries of Defense, the Military Departments, and specified heads of other DoD components to accept and use gifts of real property, personal property, or money for specified purposes, such as in support of the DoD components' authorized activities.

This legislation would authorize the Secretary of Defense, and the Director, DPAA (by the Secretary's delegation of the authority), to utilize appropriate gifts to increase DPAA's capacity to account for the missing. For example, an entity may have used excavation equipment in Europe that it no longer needs because it has completed a building project. Such equipment could be stored in DoD warehouse facilities in Europe, and its use could reduce the costs for remains recovery efforts by decreasing costs for transporting and/or contracting for equipment, which saved costs could be spent on additional investigation or recovery missions in Europe or elsewhere. Moreover, this change may encourage bequests of gifts that would otherwise increase the DPAA's capacity to engage in, e.g., historical or genealogical research, or to develop new approaches to reaching family members of missing personnel, efforts that are vital to identification of remains.

Accounting for U.S. personnel who are missing from designated past conflicts is one of the Department's essential missions. Through it, we demonstrate to DoD personnel and their families the commitment never to leave a comrade behind. This proposal would authorize the

Department to use donated property, services, and money to account for DoD personnel missing from past conflicts in the most efficient and effective manner possible.

Budget Implications: This proposal has no budget implications. Public-private partnerships and other forms of support for the purposes of facilitating the activities of DPAA are currently authorized by law and this proposal only enhances DPAA's ability to partner with NFEs and to accept and use gifts to facilitate accounting for missing persons. The funds depicted in the table below are contained within the FY 2019 request to support this program.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2019	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	.025	.025	.025	.025	.025	O&M DW	BA4		0901636DPA
Total	.025	.025	.025	.025	.025				

Changes to Existing Law: This proposal would make the following changes to section 1501a of title 10, United States Code:

§1501a. Public-private partnerships; other forms of support

(a) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary of Defense may enter into arrangements known as public-private partnerships with appropriate entities outside the Government for the purposes of facilitating the activities of the designated Defense Agency. The Secretary may only partner with foreign governments or foreign entities with the concurrence of the Secretary of State. Any such arrangement shall be entered into in accordance with authorities provided under this section or any other authority otherwise available to the Secretary. Regulations prescribed under subsection ~~(e)(1)~~ (f)(1) shall include provisions for the establishment and implementation of such partnerships. An employee of an entity outside the Government that has entered into a public-private partnership, cooperative agreement, or grant arrangement with, or in direct support of, the designated Defense Agency under this section shall be considered to be an employee of the Federal Government by reason of participation in such partnership, cooperative agreement, or grant only for the purposes of section 552a of title 5 (relating to maintenance of records on individuals).

(b) ACCEPTANCE OF VOLUNTARY PERSONAL SERVICES.—The Secretary of Defense may accept voluntary services to facilitate accounting for missing persons in the same manner as the Secretary of a military department may accept such services under section 1588(a)(9) of this title.

(c) COOPERATIVE AGREEMENTS AND GRANTS.—

(1) IN GENERAL.—The Secretary of Defense may enter into a cooperative agreement with, or make a grant to, a private entity for purposes related to support of the activities of the designated Defense Agency.

(2) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Notwithstanding section 2304(k) of this title, the Secretary may enter such cooperative agreements or grants on a sole-source basis pursuant to section 2304(c)(5) of this title.

(d) USE OF DEPARTMENT OF DEFENSE PERSONAL PROPERTY.—The Secretary may allow a private entity to use, at no cost, personal property of the Department of Defense to assist the entity in supporting the activities of the designated Defense Agency.

(e) ACCEPTANCE OF GIFTS.—

(1) AUTHORITY TO ACCEPT.—Subject to subsection (f)(2), the Secretary may accept, hold, administer, spend and use any gift of personal property, money or services made on the condition that the gift be used for the purpose of facilitating accounting for missing persons pursuant to section 1501(a)(2)(C) of this title.

(2) GIFT FUNDS.—Gifts and bequests of money accepted under this subsection shall be deposited in the Treasury in the Department of Defense General Gift Fund.

(3) USE OF GIFTS.—Personal property and money accepted under this subsection may be used by the Secretary, and services accepted under this subsection may be performed, without further specific authorization in law.

(4) EXPENSES OF TRANSFER.—The Secretary may pay all necessary expenses in connection with the conveyance or transfer of a gift accepted under this subsection.

(5) EXPENSES OF CARE.—The Secretary may pay all reasonable and necessary expenses in connection with the care of a gift accepted under this subsection.

(6) TREATMENT.—For the purposes of Federal income, estate, and gift taxes, any personal property, money, or services accepted under this subsection shall be considered as a gift, devise, or bequest to or for the use of the United States.

(~~f~~e) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to implement this section.

(2) LIMITATION.—Such regulations shall provide that acceptance of a gift (including a gift of services) or use of a gift under this section may not occur if the nature or circumstances of the acceptance or use would compromise the integrity, or the appearance of integrity, of any program of the Department of Defense or any individual involved in such program.

(g~~f~~) DEFINITIONS.—In this section:

(1) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means an authorized cooperative agreement as described in section 6305 of title 31.

(2) GRANT.—The term "grant" means an authorized grant as described in section 6304 of title 31.

(3) GIFT.—The term "gift" includes a devise or bequest.