



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

JUL 05 2001

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Department of Defense proposes the enclosed draft bill, "Exemption from Certain Immigration Inspection Fees." This proposal is part of the departmental legislative program for the First Session of the 107th Congress and we urge its enactment. The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of this proposal for your consideration and the consideration of the Congress.

Purpose of the Legislation

This provision would exempt Space Available (Space-A) passengers, predominantly members of the Armed Forces of the United States, their spouses and dependents; and retirees and their dependents, from certain immigration inspection fees when they are traveling on aircraft chartered by the Department of Defense. The proposal is more efficient than the current practice by enabling payments of fees directly to the Attorney General on an annual basis rather than periodically after collecting the immigration charges from passengers. This also is a quality of life issue for personnel assigned to overseas locations.

Recent changes to fees paid by service members traveling Space-A on Department of Defense-chartered civilian aircraft have increased to the point that it has an adverse affect on the quality of life of service members stationed overseas. The Commanders-in-Chief in Europe and South America identified charges for military travel as a serious morale issue for their overseas personnel.

The immigration charges are imposed on service members, their dependents, retirees and their dependents traveling Space-A on Department of Defense-chartered civilian aircraft (the military has recently come to rely more heavily on chartered flights to bring its members deployed overseas back to the United States for morale and welfare leave). These fees currently are not imposed on service members traveling Space-A on military aircraft.

From March 1997 through February 1998, Air Mobility Command carried 47,467 Space-A passengers on charter flights ending in the United States. At the current rate (\$6 per person), this represents \$284,802 in immigration fees. The military pays these fees and then obtains reimbursement from the traveler (no authority exists for the military to absorb these expenses as Space Available travel is classified as morale and welfare travel and not official travel). This



proposal would authorize the Department to absorb the charges and make the payments without reimbursement.

Cost and Budget Data

If enacted, this proposal may cause a slight increase to the budgetary requirements of the Department of Defense. As noted above, however, the proposal would equalize the treatment of personnel traveling on charter flights with that of personnel traveling on military aircraft. *Additionally, unlike many international travelers, the majority of military members traveling Space-A on charter aircraft are transiting to and from overseas locations to which they have been assigned by their employer, the Department of Defense.* To extract extra revenues from them because of their assigned location appears inequitable at best. The Department will receive some benefit by eliminating the costs associated with collection and accounting for fees from small numbers of passengers and a streamlined payment method to the agencies involved. Because of the small dollar amount involved in the fee and the expenses of collecting the same, the paygo implications are minimal and will be absorbed in current appropriations.

Sincerely,



William J. Haynes II

Enclosure
As Stated



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

JUL 05 2001

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The Department of Defense proposes the enclosed draft bill, "Exemption from Certain Immigration Inspection Fees." This proposal is part of the departmental legislative program for the First Session of the 107th Congress and we urge its enactment. The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of this proposal for your consideration and the consideration of the Congress.

Purpose of the Legislation

This provision would exempt Space Available (Space-A) passengers, predominantly members of the Armed Forces of the United States, their spouses and dependents; and retirees and their dependents, from certain immigration inspection fees when they are traveling on aircraft chartered by the Department of Defense. The proposal is more efficient than the current practice by enabling payments of fees directly to the Attorney General on an annual basis rather than periodically after collecting the immigration charges from passengers. This also is a quality of life issue for personnel assigned to overseas locations.

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The immigration charges are imposed on service members, their dependents, retirees and their dependents traveling Space-A on Department of Defense-chartered civilian aircraft (the military has recently come to rely more heavily on chartered flights to bring its members deployed overseas back to the United States for morale and welfare leave). These fees currently are not imposed on service members traveling Space-A on military aircraft.

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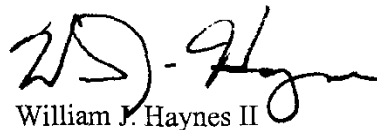


proposal would authorize the Department to absorb the charges and make the payments without reimbursement.

Cost and Budget Data

If enacted, this proposal may cause a slight increase to the budgetary requirements of the Department of Defense. As noted above, however, the proposal would equalize the treatment of personnel traveling on charter flights with that of personnel traveling on military aircraft. Additionally, unlike many international travelers, the majority of military members traveling Space-A on charter aircraft are transiting to and from overseas locations to which they have been assigned by their employer, the Department of Defense. To extract extra revenues from them because of their assigned location appears inequitable at best. The Department will receive some benefit by eliminating the costs associated with collection and accounting for fees from small numbers of passengers and a streamlined payment method to the agencies involved. Because of the small dollar amount involved in the fee and the expenses of collecting the same, the paygo implications are minimal and will be absorbed in current appropriations.

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SEC. ____ . EXEMPTION FROM CERTAIN IMMIGRATION INSPECTION FEES.

1 Section 286(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356(f)) is
2 amended by adding at the end the following new paragraph (4):

3 “(4) With respect to any passenger traveling on an aircraft chartered by the Department of
4 Defense, by any branch of the United States Armed Forces, or any component of either the
5 Department of Defense or any branch of the Armed Forces, the fee imposed by subsection (d)
6 shall be paid by the Department of Defense from the government appropriation or fund available
7 for transportation purposes, in the form of a quarterly payment to the Attorney General on a
8 schedule consistent with paragraph (3) of this subsection, based upon the total number of
9 passengers.”.

Sectional Analysis

This provision would amend section 286(f) of the Immigration and Nationality Act of 1952, as amended. These provisions would exempt Space Available (Space A) passengers, predominantly members of the Armed Forces of the United States and their spouses and dependents, and retirees and their dependents, from certain immigration inspection fees when they are travelling on aircraft chartered by the Department of Defense, by any branch of the United States Armed Forces, or any component of either the Department of Defense or any branch of the United States Armed Forces. The Department of Defense will obtain efficiencies by paying these fees directly to the Attorney General on an annual basis. This is also a quality of life issue for personnel assigned to overseas locations.

Recent changes to Federal Transportation Tax have raised the combination of taxes and fees paid by service members travelling Space A on DOD-chartered civilian aircraft to the point that it is having a significant adverse affect on the quality of life of service members stationed overseas. The Commanders-in-Chief in Europe and South America have determined that these charges are a serious morale issue. The Commander-in-Chief, United States Transportation Command, agrees that relief is needed.

These charges are imposed on service members, their dependents, retirees and their dependents travelling Space A on DOD chartered civilian aircraft (the military has recently come to rely more heavily on chartered flights to bring its members deployed overseas back to the United States for morale and welfare leave). These fees are currently not imposed on service

members travelling Space A on military aircraft.

From March 1997 through February 1998, Air Mobility Command carried 47,467 Space A passengers on charter flights ending in the United States and 52,777 Space A passengers on charter flights originating in the United States. At the current rate (\$6 per person), this represents \$284,802 in immigration fees. The military pays these fees for the member and then must obtain reimbursement from the member (no authority exists for the military to absorb these expenses as Space Available travel is classified as morale and welfare travel and not official travel).

Space A travelers on international military charter flights must pay a fee for use of international facilities of \$12.40 per passenger on any flight that begins or ends in the United States. See 26 U.S.C. § 4261(c)(1). Prior to October 1, 1997, this tax was only \$6 and it was imposed only on international flights from the U.S. This two-fold increase (from \$6 to \$12.40) is a new hardship for overseas military members. In addition to the International Air Transportation Tax, service members traveling Space A on DOD-chartered civilian aircraft must pay a customs user fee of \$5; See 19 U.S.C. § 58c(a)(5)(B); and an Immigration Inspection fee of \$6 per passenger; See 8 U.S.C. § 1536(d).

Thus, since October 1997, the round-trip tax imposed on service members travelling on DOD chartered civilian aircraft has increased from \$17 to \$35.80.

**TAXES/FEEES IMPOSED ON EACH SERVICE MEMBERS AND FAMILY MEMBER TRAVELLING
SPACE A
ON DOD CHARTERED CIVILIAN AIRCRAFT**

	<u>Pre-October 1, 1997</u>	<u>Post-October 1, 1997</u>
Immigration inspection fees	\$ 6	\$ 6
Custom fees	\$ 5	\$ 5
Fees for use of international facilities	<u>\$ 6</u>	<u>\$24.80</u>
	\$17	\$35.80

While \$35.80 may not seem excessive for a round-trip airfare from an overseas duty station and the United States, for a young enlisted member with a spouse and two children the \$140 in taxes/fees may preclude them from being able to take a mid-tour break to visit family and friends.

In addition to the obvious effect on morale, a mid-tour Space A flight to the United States from overseas is a factor in voluntary tour extensions (which saves money by reducing the frequency of moves and can improve mission capability by increasing the continuity of personnel).

No group of travelers deserves less to be seen as a source of revenue than those who are

serving the armed forces overseas. Enacting this narrow exception to Title 8 of the United States will reduce this burden and both improve morale and quality of life, while contributing to mission readiness.

If enacted, this proposal may cause a slight increase to the budgetary requirements of the Department of Defense. However, as noted above, the proposal would equalize the treatment of personnel traveling on charter flights with that of personnel traveling on military aircraft. Additionally, unlike many international travelers, the majority of military members traveling Space A on charter aircraft are transiting to and from overseas locations to which they have been assigned by their employer, the Department of Defense. To extract extra revenues from them because of their assigned location appears inequitable at best. The Department of Defense will receive some benefit by *eliminating the costs associated with collection and accounting for fees* from small numbers of passengers and a streamlined payment method to the agencies involved.