

TECHNICAL STAFF ANALYSIS OF SECTION 1003 OF S. 1026

Section 2221(a) would establish a Defense Modernization Account (DMA).

Section 2221(b)(1) would authorize the Secretary of Defense to transfer, without limit, (A) funds available for "procurement" that would otherwise expire and (B) funds available for "support of installations and facilities" that would otherwise expire.

Since almost all DOD accounts are available for "procurement" and the "support of installations and facilities", funds could be transferred from many different accounts. For example, all of the O&M, Procurement, RDTE, Housing, and even parts of the Defense Health Program accounts are available to procure goods and services and/or support installations and facilities.

Section 2221(b)(2) specifies that funds may not be transferred to the DMA by the Secretary if the funds are necessary for programs, projects, and activities that, as determined by the Secretary, have a higher priority than the purposes for which the funds would be available if transferred.

Section 2221(b)(3) would permanently reappropriate the amounts transferred to the DMA from fixed period (i.e., annual and multi-year) appropriations to no-year appropriations.

Section 2221(c) would "attribute" the amounts transferred to the DMA. Essentially, funds transferred in by a military department, Defense agency, or other element of DOD shall only be available for that department, agency, or element. It is not clear that the term "element" is needed. However, if it is retained, it should be clearly defined and in a manner that will not complicate DOD's accounting system.

Section 221(d) would make the funds available for a broad range of activities (1) for increasing the quantity of items and services procured under a procurement program in order to achieve more efficient production or delivery rate or (2) for research, development, test, and evaluation and procurement necessary for modernization of an existing system or of a system being procured under an ongoing procurement program.

Section 2221(e) would prohibit the use of the funds: for a purpose for which Congress denied funds; or in excess of:

—a specific limitation provided in law on either (1) the quantity or the items or services that may be procured or (2) the obligation or expenditure obligated or expended, respectively, for the procurement program; or

—the requirement for the items or services as approved by the Joint Requirements Oversight Council and reported to Congress by the Secretary of Defense.

Section 2221(f)(1) would provide permanent transfer authority up to \$500 million each year from the DMA to accounts available for the purposes described in subsection (d). This subsection and subsection (b)(3), when taken together, would establish a process that would function through reprogramming.

Section 221(f)(2) would require the Secretary to notify the Armed Services and Appropriations Committees of any proposed transfers under (f)(1).

Section 2221(g) specifies that funds in the DMA (to include balances over the \$500 million transferred under subsection (f)(1)) may be appropriated for purposes of subsection (d) to the extent provided in Acts authorizing appropriations for the Department of Defense. This appears to provide another method to make funds in the DMA available for obligation in addition to reprogramming.

Section 2221(h) would require the Secretary of Defense to exercise his authority under this section through the Undersecretary of

Defense (Comptroller). If the intent is to allow the Secretary to delegate this authority it is unnecessary. Sufficient authority already exists for such a delegation.

There is no sunset date for the DMA.

Mr. GRASSLEY. Mr. President, I join Senator GLENN in offering an amendment to Section 1003 of the bill.

Section 1003 establishes a new account at the Department of Defense [DOD].

The new account is called the "Defense Modernization Account."

When I was first told about the Defense Modernization Account, I was very concerned.

The alarm bells went off.

Right away, I thought I could see another slush fund like the infamous \$50 billion M accounts in the making.

Subsection (B)(3) is what really set me off.

This is what it says:

Amounts credited to the Defense Modernization Account shall remain available until expended.

To me that sounds like a permit to open a laundry operation to break down the integrity of appropriations.

That sounds like another honey pot where unlimited amounts of no-year money could be stashed for a rainy day.

Like the M accounts, I fear this money could be used to cover cost overruns and other unauthorized projects beyond the purview of Congress.

Clearly, this is not the intended purpose of section 1003.

But in my mind, it is a potential problem. Bureaucrats at the Pentagon might abuse the new authority.

I also think section 1003 may be inconsistent with various parts of title 31 of the United States Code and most particularly the M account reform law enacted in November 1990.

I am afraid that section 1003 might be used to undermine strict procedures for closing appropriation accounts that were established by the M account reform law.

That law set up expired accounts.

When the period of availability of an appropriation ends—as fixed by annual appropriation bills, those moneys are placed in an expired account—where they remain for 5 years.

While in the expired accounts, the fiscal year and appropriation account identity must be maintained.

At the end of 5 years, accounts must be closed and all remaining balances are canceled.

It is important to maintain the integrity of appropriation accounts.

And it is important to respect the period of availability set in the appropriations bills.

But my concerns are not incompatible with the purpose of the Defense Modernization Account.

The Defense Modernization Account is supposed to encourage the Defense Department to save money and to use savings to meet critical modernization shortfalls.

The periods of availability in expired accounts plus the availability provided in annual appropriations bills means that procurement moneys—the primary focus of section 1003—are available for 8 years or more.

That's more than enough time to identify savings and reallocate them into top priority modernization programs—with congressional approval.

Senator GLENN has crafted an amendment that addresses all of my concerns.

His amendment brings the Defense Modernization Account into line with current law.

Above all, his amendment protects the integrity of the appropriations accounts and all moneys involved.

I thank Senator GLENN for making such an important contribution to financial management at the Pentagon.

#### WAS CONGRESS IRRESPONSIBLE? CONSIDER THE ARITHMETIC

Mr. HELMS. Mr. President, it does not take a rocket scientist to be aware that the U.S. Constitution forbids any President to spend even a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when a politician or an editor or a commentator pops off that Reagan ran up the Federal debt or that Bush ran it up, bear in mind that the Founding Fathers, two centuries before the Reagan and Bush Presidencies, made it very clear that it is the constitutional duty of Congress—a duty Congress cannot escape—to control Federal spending.

Thus, it is the fiscal irresponsibility of Congress that has created the incredible Federal debt which stood at \$4,945,941,078,492.53 as of the close of business Friday, August 4. This outrageous debt—which will be passed on to our children and grandchildren—averages out to \$18,774.87 for every man, woman, and child in America.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator has yielded. Morning business is closed.

#### FAMILY SELF-SUFFICIENCY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4, the welfare reform bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 2280, of a perfecting nature.