GENERAL SERVICES ENHANCEMENT ACT OF 2008

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

This section provides that the bill's short title is "The General Services Enhancement Act of 2008"

Sec. 2. Table of contents

This section contains a table of contents of each of the sections of the bill.

TITLE I – REAL AND PERSONAL PROPERTY MANAGEMENT REFORMS

Sec. 101. Amendment to the Prospectus Requirement for Alterations.

Section 101(a) would amend 40 U.S.C. § 3307, the provision that restricts Congress's ability to appropriate funds above a certain amount to construct, alter, lease or otherwise acquire a building until the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure approves a prospectus for that project or lease. The amendment would raise the prospectus threshold for projects for alterations.

The amendment would renumber existing paragraphs (2) and (3) of the subsection 3307(a), as paragraphs (3) and (4), respectively, and insert a new paragraph (2). New paragraph (2) would raise the dollar threshold for prospectus-level alteration projects in federally-owned buildings from the current threshold of approximately $2.6 million dollars, as adjusted annually based on certain construction cost indexes, to twice that amount. GSA believes the current alteration prospectus threshold impedes GSA's ability to perform routine type alterations to large buildings in high-cost areas. The amendment keeps the current prospectus threshold amount for new building construction and acquisition projects at its current level ($2.6 million, as adjusted for changes in annual construction cost indexes under 40 U.S.C. § 3307(h)) but would provide that the prospectus threshold amount for *alterations* in government-owned public buildings would be two times that adjusted current amount. The amendment would also provide that the prospectus threshold amount for *alterations in leased buildings* would be limited to one-half of the current adjusted threshold amount for construction and acquisition projects. In effect, the alteration prospectus thresholds would be linked to the basic prospectus threshold for construction or acquisitions (double the amount for alterations to government space and half the amount for alterations to leased space).

While GSA believes the number of prospectus-level alteration projects that would be exempt from the prospectus approval process if this legislation were passed would be

small, this measure would significantly increase the speed with which GSA can complete some routine recurring building alterations in high-cost areas, using funds from GSA's minor repair and alteration account.

Subsection 1(b) would remove the specific dollar figure for prospectus level rent rates ($1,500,000, as adjusted) and substitute a reference to the same threshold ($1,500,000, as adjusted) in paragraph (a)(1). The legislation also makes clear that the threshold amount is $1,500,000, as that amount has already been adjusted over the years, and not beginning at $1,500,000 at the time of enactment of the bill.

Subsection 101 (c) would make a technical change to 40 U.S.C. § 3307(h) to provide that only the basic construction and acquisition threshold amount referred to in 3307(a)(1) would be adjusted for fluctuations in the construction cost index in under subsection (h) and that the prospectus thresholds for alterations in owned and leased buildings would be derived from that basic amount. Subsection (c) also provides that the prospectus threshold amounts could be adjusted by a suitable alternative construction cost index, rather than by the composite index of construction costs that is no longer maintained by the Department of Commerce.

Subsection 101 (d) would make conforming amendments to 40 U.S.C. § 3305, by changing the reference to the alteration prospectus threshold to twice that of the basic construction and acquisition prospectus threshold amount (as adjusted under § 3307(h)), and by deleting the unnecessary dollar amount adjustment provisions in § 3305(b)(2)(B).

Sec. 102. Enhanced Emergency Leasing Authority.

Section 102 would amend 40 U.S.C. § 3307, in subsection (e), to expand GSA's current emergency real property leasing authority in two ways:

First, the amendment would change the definition of the type of emergency that would trigger the GSA's authority to proceed with a prospectus level emergency lease. Current law restricts the use of the emergency lease authority to any period for which the President declares that emergency leasing authority is required. The amendment would allow GSA to use the emergency leasing authority in emergencies where a sudden or unexpected event threatens either human health and safety or the structural integrity of the building.

Second, the amendment would expand the term of an emergency lease from the current 180 days to periods not more than 5 years unless a prospectus has been approved. GSA has found that during major disasters such as 9-11 and the Katrina Hurricane that local lessors generally will not offer 180-day leases when other displaced commercial tenants are willing to sign longer leases. Moreover, when a government owned or leased building sustains major structural damage it is virtually impossible to repair or restore the building within 180 days. The result is that GSA is forced to sign a

higher-cost 180 day lease, and then either sign another 2-and-a-half-year follow-on lease with the lessor, or move out, when it would have been less expensive for the government to have signed the 3-year lease in the first place.

Sec. 103. Streamlining and Enhancing Management and Disposal of Personal Property.

Section 103 amends several sections of title 40, United States Code, related to the management and disposal of personal property.

Subsection 103(a) amends 40 U.S.C. § 503 by amending the section's heading and by revising subsection 503(a) to authorize executive agencies to exchange or sell personal property or related services and to apply the proceeds from the sale or exchange toward the purchase of similar property or related services. The revised subsection also clearly provides that the expenses of the sale of personal property may be paid from the proceeds of the sale. Revised subsection 503(b) also clarifies that sales of personal property shall be governed by the negotiated sale provisions of 40 U.S.C. § 545 and not those of 41 U.S.C. § 5.

Subsection (b) makes a clerical amendment to the Code.

Subsection (c) amends 40 U.S.C. 521 to permit the Administrator of General Services is authorized to prescribe policies and methods to minimize expenditures for, and to maximize the effective use of, federal real and personal property assets. This includes the management and use of current assets, the interagency transfer of excess property and the disposal of surplus property. The subsection also adds a new provision to 521 authorizing the Administrator to prescribe policies for agencies to provide surplus personal property to State and local governments in the event of a major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and specifically authorizing GSA to pay the costs of transporting the donated surplus personal property from available GSA funds if necessary.

Subsection (d) of the bill amends 40 U.S.C. § 527 to authorize the Administrator to abandon, destroy or otherwise dispose of unneeded property that has no commercial value or if the estimated cost of the continued care and handling of the property would exceed its value. Subsection (d) also makes a clerical amendment to table of contents in the Code.

Subsection (e) would amend 40 U.S.C. § 529 to remove the word "excess" from the title of the section. The property described in the text of the section is not all classified as "excess". Specifically, property obtained by an agency under the scenario described by 40 U.S.C. § 529(a)(1)(B) would not necessarily be "excess" property, and so the current title does not accurately describe the property which must be reported. This is a purely administrative change.

Subsection (f) would amend 40 U.S.C. § 545 to eliminate obsolete paragraphs of the law that limit when negotiated sales of surplus personal property are permitted. For example, subsection (f) would eliminate the paragraph in the law that would allow a disposal by negotiation (rather than by sealed bid) when there is a national emergency declared by the President or Congress. Disposals of property in such situations are now covered by other laws. The subsection also renumbers the remaining provisions to reflect the elimination of the obsolete paragraphs, eliminates the current requirements in 40 U.S.C. § 545 (e) for the preparation of explanatory statements to Congress concerning negotiated sales of surplus personal property, and eliminates the requirement to include a listing and description of certain negotiated disposals in a seldom-issued discretionary report under 40 U.S.C. §126. GSA would continue to submit to Congress explanatory statements for negotiate disposals of real property under 40 U.S.C. § 545(e).

Subsection (g) of the bill would amend 40 U.S.C. § 549 by striking paragraph (c)(4) and subsection (d), which deal with Department of Defense property to ensure that educational activities of special interest to the military services will now be eligible to acquire civil agency property (in addition to Defense Department property) through their local state surplus property agencies. Subsection (g) of the bill also amends subsection §549(c) by striking clause (c)(3)(B)(iii) concerning homeless providers and instead adds a new subsection (c)(3)(C) which creates a separate donee category for nonprofit providers of assistance to the poor and homeless. Finally, subsection (g) would amend the law to update the language used in clause (c)(3)(B)(iv) to refer to individuals with mental and physical disabilities.

TITLE II – TRAVEL RELATED REFORMS

Sec. 201. Meritorious Claims – Authority to Settle Civilian Travel and Relocation Claims.

Currently, 31 U.S.C. § 3702(a)(3) authorizes the Administrator of General Services to settle claims filed by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station. Additionally, 31 U.S.C. § 3702(d) requires that the Administrator report to Congress any civilian employee travel or relocation claims that could not be adjusted under existing appropriations, but that the Administrator believes that Congress should consider for legal or equitable reasons.

Subsection 201(a) of this bill amends 31 U.S.C. § 3702(d) by removing the requirement that the Administrator of General Services report to Congress on civilian travel and relocation claims that cannot be settled using existing appropriations, and instead inserts a new provision allowing the Administrator to waive certain payment prohibitions when the Administrator determines the claim should be paid for equitable reasons. The authorities of the Secretary of Defense, the Director of the Office of Personnel Management, and the Director of Management and Budget, under 31 U.S.C. § 3702, to

report meritorious claims to Congress remain unchanged, except a minor word change in proposed paragraph (d)(1). Currently, 31 United States Code 3702(d) provides for a report to Congress on a claim that the responsible official believes Congress should consider for "legal or equitable reasons." However we are seeking to remove the word "legal" from the phrase.

In 1928, when Congress enacted this law, it referenced "a claim . . . that may not lawfully be adjusted by the use of an appropriation theretofore made, but which claim . . . contains such elements of legal liability or equity as to be deserving of the consideration of the Congress." 45 Stat. 413 (1928). Thus, a claim would be "meritorious" if it could not be lawfully paid but was for some other reason deserving of payment. In 1982, when Title 31 of the Code was codified to restate existing law "without substantive change," House Report 97-651 at 1 (1982), this sense was inadvertently distorted by inclusion of the phrase "for legal or equitable reasons." The removal of the words "legal or" from the phrase "for legal or equitable reasons" will not make a substantive change from the intent of the original public law, but merely removes any ambiguity that the word "legal" may add to the meaning of this provision.

The section allows the Administrator to pay meritorious claims by adding a new paragraph (d)(2) that vests authority in the Administrator, upon the request of the head of the employing agency, to waive any limitations in Subchapters I or II of Chapter 57 of Title 5 of the United States Code that would otherwise prohibit payment of a travel or relocation claim where the Administrator determines that the claim should be paid for equitable reasons. This would expand the number of meritorious travel claims that could be settled administratively and avoid the need for the introduction of private relief legislation which could take years to grant relief to an otherwise meritorious claim. Further, this section allows the Administrator of General Services to establish procedures under which requests for relief may be made. New subsection (d)(2), in effect, makes permanent a pilot program authorized under 5 U.S.C. §§ 5710 and 5739 that allowed GSA to resolve meritorious travel and relocation claims without the need for Congressional passage of private relief legislation.

Sec. 202. Humanitarian Travel – Transportation Incident to Disaster or Other Catastrophic Events Involving Uniformed Service Members.

Subsection (a) amends 5 U.S.C. § 5702(b) to allow agencies to meet their humanitarian travel responsibilities to civilian employees and their designated representatives. Under this proposed language, the head of an agency will be able to provide travel and transportation benefits to Federal employees involved in disasters or other catastrophic events while performing official Government travel and to up to three of their immediate family members and agency representatives for travel to and from the site of the disaster or catastrophic event, memorial services, and any other location designated by the head of the employing agency. The head of an agency also will be able to provide travel and transportation benefits to the family members and agency representatives to

the location where an employee has become seriously ill or injured, or died while performing official Government travel.

Subsection (b) amends 37 United States Code § 411 by adding a new section 40 U.S.C. 411k entitled: "Travel and transportation allowances: transportation incident to disaster or other catastrophic events." This new section would provide an equivalent authority for uniformed service members for disasters or other catastrophic events and memorial services. It also would expand the existing authority for travel of family members of seriously ill or injured service members.

Subsection (c) amends 22 U.S.C. § 4081 to provide the Secretary of State discretion to pay the travel and related expenses of members of the Foreign Service involved in disasters or other catastrophic events, as well as such expenses for their family members and for agency representatives. The requested authority could be used to respond to disasters and other catastrophic events involving members of the Foreign Service assigned abroad or on official travel. The section would supplement the Secretary's existing authorities to pay for travel and related expenses of members of the Service.

Subsection (d) provides that the amendments made by section 202 shall not take effect until 180 days after enactment, which should allow the affected agencies time to promulgate the necessary regulations to implement these programs.

Sec. 203. Extension of Travel Expenses Test Programs for Federal Workers.

The Travel and Transportation Reform Act of 1998 (Pub. L. 105-264, October 19, 1998), authorized Federal agencies to conduct travel and relocation expenses test programs when determined by the Administrator of General Services to be in the interest of the Government. The provisions of the Act were implemented by a Federal Travel Regulation (41 CFR, Chapters 300-304) amendment, and published in the Federal Register at 64 FR 28880, on May 27, 1999. Under the regulation agencies were permitted to test new and innovative methods of reimbursing travel and relocation expenses without seeking a waiver of current rules or authorizing legislation.

Ultimately, the test authorities for the travel and relocation programs expired in October 2005. Thereafter, Public Law 109-325 (October 11, 2006), amended 5 U.S.C. § 5739 by extending the authority for General Services Administration (GSA) to approve relocation expenses test programs for an additional four years. In addition, the law removed the 24-month period in which an agency had to complete an approved relocation expenses test program. The amendments provided by Pub. L. 109-325 are effective as though enacted as part of the Travel and Transportation Reform Act of 1998, and the provisions of this Act were recently implemented by another Federal Travel Regulation amendment, published at 72 FR 51373 (September 7, 2007).

Public Law 109-325, however, did not extend the authority for GSA to approve travel expenses test programs. This proposal seeks to extend GSA's authority to approve

travel expenses test programs. The proposed language would amend 5 U.S.C. § 5710 by extending the authority through October 18, 2014 (16 years after the enactment of Public Law 105-264), and by removing the 24-month completion period for approved travel expenses test programs. GSA is particularly interested in travel expense programs that involve telework initiatives as several agencies have robust telework test programs already underway with promising results.

Sec. 204. Mileage Reimbursement for Privately Owned Vehicles (POVs).

Section (a) amends 5 U.S.C. § 5704 to clarify that the mileage allowances prescribed by this section will be equal to that prescribes in 5 U.S.C. § 5707; this eliminates redundancy within the Federal Government in order to save taxpayer dollars.

Section (b) amends 5 U.S.C. § 5707 for clarification. Essentially every year, the Internal Revenue Services (IRS) spends taxpayer dollars to develop an optional standard mileage rates for employees, self-employed individuals, or other taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. Likewise, GSA spends taxpayer dollars every year to develop a mileage rate at which employees are reimbursed, in lieu of actual transportation expenses, when they are authorized by their agencies to use their privately owned automobiles on official business.

While ostensibly established for two different purposes, the two rates do achieve the same goal--- the adequate compensation for employees, either in the public or private sectors, authorized to use their personally owned automobiles for official business purposes. In addition, current law indicates that the mileage reimbursement rate for the use of private owned automobiles established by the Administrator of General Services shall not exceed the optional standard mileage rate established by the IRS.

Thus, this legislative change seeks to eliminate the redundancy inherent in both the IRS and GSA establishing mileage rates by requiring that the mileage reimbursement rate established by the Administrator of General Services for the use of privately owned automobiles equals the standard mileage rate established by the IRS. This proposed amendment to this section will have no impact on agency budgets.

As the IRS does not establish similar rates for the use of a privately owned aircraft or motorcycle, GSA will continue to conduct studies to establish those rates.

Sec. 205. Travel Cost Reporting.

Section 205 amends 5 U.S. C. § 5707(c) to require that every large executive agency provide annual reports to the General Services Administration (GSA) on their travel expenditures and that GSA will establish the content, format, and due dates for these reports. The amendment also directs the head of these agencies to designate a senior executive of each agency to oversee and administer their agency's travel program, and

to make such executive responsible for certifying and submitting the travel reports. This proposed change would enhance the Governmentwide travel program while ensuring that the program can remain flexible in the face of ongoing changes in the travel industry.

Sec. 206. Relocation Allowances.

Section 206 amends multiple sections of Chapter 57 of Title 5, United States Code, to address various relocation issues, many of which are based on recommendations of a GSA-sponsored Federal advisory group known as the "Governmentwide Relocation Advisory Board."

Subsection (a) amends 5 U.S.C. § 5721 in paragraph (3) by redefining the continental United States as the 48 contiguous states and the District of Columbia, and in paragraph (6) by redefining "United States" to mean the 50 States, the District of Columbia; the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands and the territories and possessions of the United States, and by striking the verbiage relating to the Panama Canal.

Subsection (b) amends 5 U.S.C. § 5722(a) to authorize en route per diem allowance or actual subsistence expenses, or a combination thereof, for a new employee's immediate family. New employees are not authorized these allowances in current law. Under current law relocation benefits for new appointees are very limited. This can inhibit agency efforts to recruit qualified individuals.

Subsection (c) amends 5 U.S.C. § 5723(a) to authorize en route travel and per diem expenses for a new employee's immediate family members, and adds new paragraphs (3) through (6) to provide agencies the flexibility to authorize new appointees and student trainees appointed to positions in the continental United States any one of, a combination of, or all of the benefits specified in 5 U.S.C. §§ 5724, 5724a, 5724b, and 5724c. This can also inhibit agency efforts to recruit qualified individuals. Allowing some of these relocation benefits may make the difference in the agency's ability to successfully recruit candidates for hard to fill occupations, like computer scientists, physicians and nurses. New employees are not authorized these allowances in current law, but there is legal precedent for this proposed revision: Congress authorized the National Aeronautical and Space Administration such authority in Pub. L. 108-201, February 24, 2004.

Subsection (d) amends 5 U.S.C. § 5724c by deleting the requirement to reimburse an employee for shipping his/her household goods on a commuted rate basis at the rates per 100 pounds that are fixed by zones in the regulations. The commuted rate reimbursement method for the shipment of household goods is obsolete and is no longer the most cost effective way to ship an employee's household goods. The subsection, in effect, deletes the commuted rate methodology from the multiple

methods for reimbursement of household shipment costs currently prescribed in the law. Subsection (d) also revises 5 U.S.C. § 5724(a)(3), for consistency, by substituting "18,000" for "eighteen thousand."

Subsection (d) also amends 5 U.S.C. § 5724 by adding a new subsection (k) to the end. The new subsection 5724(k) would authorize payment for the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking professional books, papers, and equipment (PBP&E), without affecting the employee's prescribed household goods (HHG) weight allowance. PBP&E are those essential items, e.g., documents, research papers, books, and equipment accumulated over a career that cannot be provided by the agency at the new official duty station and are necessary for the continued performance of the employee's duties and profession.

The subsection would also add a new § 5724(k) which would authorize payment of the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking of consumable goods shipments to locations outside the continental United States, in accordance with Department of State guidelines and weight limitations, without affecting the employee's prescribed household goods (HHG) weight allowance. The intent of the consumer goods allowance is to provide employees with food supplies that are necessary to sustain the employee's standard of living and that are not available under the extreme conditions which might exists at certain locations outside the continental United States. The new 5724(k) also authorizes payment of the expense of transporting, packing and unpacking unaccompanied air baggage, as a separate shipment, not to exceed a weight limitation imposed by the Administrator of General Services. Unaccompanied air baggage will be included in the employee's prescribed HHG weight allowance.

Subsection (e) of this section would amend 5 U.S.C. § 5724a, in subsections (c)(A) and (c)(2), to decrease the period of temporary quarters that may be authorized from 60 days to 30 days and the extended period from an additional 60 days to 30 days respectively. It also adds a new subsection (c)(3) to allow the Administrator to extend the period of temporary quarters for an indefinite period, in 60-day increments, in the event of a natural disaster or catastrophic event, if warranted. This proposed change will adopt best business practice relocation policies from the private sector, which offer a maximum of 30 days in temporary quarters. Subsection 206(e) also amends 5 U.S.C. § 5724a(d) by adding a new sentence to paragraph (d)(1) to allow for the reimbursement of rental broker's fee in those locations where such fees are customary and necessary to secure a rental dwelling. Similarly, 206(e) also would allow any members of an employee's immediate family to receive a constructive cost allowance for dependent care (relating to minor children or dependent or elderly adult family members) required if the employee needs to be away on a relocation-related househunting trip.

Subsection (e) also amends 5 U.S.C. § 5724a(f) by striking those portions relating to single and married allowances for miscellaneous expenses; and instead, it allows the Administrator of General Services to set a regulatory lump sum dollar amount for miscellaneous expenses, regardless of marital status. Current Federal civilian limits

appear lower than those of the private sector which typically are not based on the marital status of the employee. This also requires the Administrator, or the Administrator's designee, to conduct a biennial analysis of private industry best practices and Department of Labor consumer price index to determine whether or not an increase in the lump sum amount is warranted.

Subsection (f) of this section amends 5 U.S.C. § 5724b to add employment taxes (FICA and Medicare) to the calculation of the relocation income tax allowance (RITA), which currently limits reimbursement for "substantially all of the Federal, State, and local income taxes incurred by an employee, or an employee and such employee's spouse (if filing jointly)." The agencies are already withholding these taxes from reimbursements, payments, and allowances for taxable relocation expenses, but current law does not allow their inclusion in the RITA calculation. Allowing the agency to reimburse the subsequent taxes on this withholding would be more in line with private-sector best business practices.

Subsection (g) amends 5 U.S.C. § 5724c to expand the current relocation services, including but not limited to, employment-finding assistance for the employee's spouse at the new duty station. This also requires agencies and employees to make use of the least costly home-sale program offered by their relocation services contractor. It provides a list of home-sale alternatives, in priority order, but authorizes the Administrator of General Services by regulation to add to, subtract from, or change this list in response to changes in the marketplace.

Subsection (h) amends 5 U.S.C. § 5726 to allow the Administrator of General Services to prescribe regulations authorizing the storage of an employee's privately owned vehicle, including the cost of ancillary services, at Government expense, when the employee is assigned outside the continental United States.

Subsection (i) of this section amends 5 U.S.C. § 5727(f) to allow the head of the agency to authorize the rental of a motor vehicle to employees who have been authorized shipment of a privately owned vehicle (POV), if the POV will not be available when the employee or his/her immediate family arrive. The rental vehicle would be available for use by the employee and the employee's immediate family to perform simple tasks such as commuting to and from work, grocery shopping, entertainment, etc., during the period of time the employee's POV is in transit.

Subsection (i) also adds 5 U.S.C. § 5727(g) to permit the authorized storage of a POV of an employee who is relocated to a foreign area where importation of such vehicle is prohibited by the host country or where it is impractical or cost prohibitive to move the vehicle to the foreign area. The subsection would effect this change by directing that subsection 5727(f) be designated subsection (h) and by adding two new subsections (f) and (g) to 5 U.S.C. § 5727.

Subsection (j) amends 5 U.S.C. § 5737 to align § 5737(a)(8) with the revision to § 5724b by including employment taxes in the calculation of the relocation income tax

allowance; and by adding a new (a)(11) concerning the payment of storage of one privately owned vehicle by an employee who is performing an extended assignment. This is necessary to assist relocated Federal employees with the cost of storing their POVs because certain locations may not allow the importation of privately owned vehicles and to align government practices with the best business practices of the private sector.

Subsection (k) amends 5 U.S.C. § 5738 by adding new paragraphs (3) through (8) to require the Administrator of General Services to submit an annual report to OMB on agency expenditures for relocation. These new paragraphs also require that the agencies covered by the Chief Financial Officers Act provide data to GSA in support of this report, require that GSA establish the data elements and format for the report, and require all agencies to use an automated system to manage relocation and track costs. Finally, new paragraph (8) require that the CFO Act agencies each designate a senior executive to oversee and administer their agency's relocation programs, and to make such official responsible for certifying and submitting annual reports to GSA on their relocation expenditures.

Subsections (l) and (m) amend 5 U.S.C. § 5739, by striking subsections (c) and (d), to allow the Administrator of General Services to conduct any number of relocation test programs, scheduled to expire in October 2009, on a permanent basis. This also extends the authority of other agencies, upon approval of the Administrator, to conduct any number of relocation expense test programs for an additional four years. The advent of new technologies, new laws, cultural changes and market forces continue to bring about change. Private sector relocation policies generally change quickly; these proposed changes will allow Government agencies to more quickly develop and implement more effective policies and potential cost saving programs.

Sec. 207. Amendment for Temporary Duty Lodging.

Section 207 amends 5 U.S.C. § 5911(e) by adding language that temporary duty lodging reimbursements under the provisions of chapter 57 of title 5, United States Code, are exempt from the provisions of subsection 5911(e). Currently, 5 U.S.C. § 5911(e) provides that the head of an agency may not require an employee or member of a uniformed service to occupy "quarters" on a rental basis, unless the head of the agency determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise. "Quarters" is defined by 5 U.S.C. § 5911(a)(5) to mean "quarters owned or leased by the Government." The Comptroller General of the United States has held that 5 U.S.C. § 5911(e) prevents agencies from requiring employees on official travel to stay in hotel or motel rooms contracted for by the government, which are generally less expensive. This change should clarify that employees on travel status may be required to stay in hotels and motels contracted for by the Government without the official determination required under 5 U.S.C. § 5911(e).

TITLE III — OTHER AUTHORITY ENHANCEMENTS

Sec. 301. Acceptance of Unconditional and Conditional Gifts.

Section 301 would amend GSA's current statutory authority to accept unconditional gifts of property, 40 U.S.C. § 3175, to allow GSA to also accept conditional gifts of property and services. While 40 U.S.C. § 3175 currently gives the Administrator of General Services and the Postmaster General the authority to accept unconditional gifts of property (including cash) in aid of any project or function under their respective jurisdictions, GSA lacks the authority of other agencies to accept both conditional and unconditional gifts of property and services.

Subsection 301(a) would rewrite 40 U.S.C. § 3175 by eliminating the reference to the Postmaster's authority (which is now incorporated into provisions in title 39, United States Code) and by adding a new subsection (b) which would govern GSA's acceptance of conditional gifts. The rewritten gift acceptance authority clarifies that the authority included gifts of cash, but also expands existing authority to allow GSA to accept unconditional and conditional gifts of services.

New subsection 3175 (b) would specify that before the Administrator may accept a conditional gift, the Administrator must determine in writing that: 1) the conditional gift or grant is in the best interests of the United States; 2) that acceptance of the gift or grant does not create a conflict or appearance of impropriety; 3) that any conditions of the grant or gift can be accomplished under GSA's existing authorities and would not cause a hardship on GSA's programs; and 4) that if there are conditions that must be fulfilled to accept the grant or gift that GSA's appropriations are available to pay those conditions.

New subsection 3175(c) is a straight forward prohibition against GSA accepting any conditional gift which would require the Administrator to take any actions to fulfill a condition that would be inconsistent with applicable law or regulations.

New subsection 3175 (d) reiterates the Comptroller General's position that grants application costs is a necessary expense for an agency with conditional gift authority.

New subsection 3175(e) would expressly provide that any gift or grant of cash, or any net cash proceeds from the sales of any real or personal property, shall be deposited into the GSA Gift Fund and, subject to apportionment requirements, shall be available for necessary expenses of the GSA for any project of function.

New subsection 3175(f) would add a requirement that GSA submit a report to its oversight Committees at the end of any fiscal year in which it accepts or uses a gift under this section.

Subsection 301(b) makes a clerical amendment to the Code's table of contents.

Sec. 302. Enhanced Child Care Services for Federal Employees.

Section 302 would make several amendments to 40 U.S.C. § 590 – Child Care.

Paragraph (1) of subsection (a) would amend the definitional section of the current law (40 U.S.C. § 590(b)(1)) by adding a new definition for "Onsite Federal Contractors". Paragraph (2) of subsection (a) would add language modifying the 50 percent Federal employee enrollment requirement for Federal agency sponsorship of child care facilities in Federally owned and leased space, and broadens the definition of "Federal children" to include the children of onsite Federal contractors. While retaining the 50 percent standard as an agency-wide goal for all child care facilities in Federally owned and leased space, under subsection (b)(1), Federal agencies would have the flexibility to extend care to dependent children of more employees, help enable the facilities to fully utilize their capacity, improve their financial stability, and manage the inevitable fluctuations in an individual facility's enrollment without falling into non-compliance with the current statutory requirement.

Paragraph (3) of subsection (a) would amend current law to include "cleaning that is appropriate for a child care center" to the definition of "services" that may be provided to the centers. This amendment is to clarify that agencies may use Federal funds to clean child care facilities that they support and to designate the level of cleaning that is appropriate for a child care facility where maintaining the highest levels of sanitation is critical to the health of children on group settings. Currently, GSA cleans these centers to the "clinical" level, or highest level available; however other agencies were not sure they have the authority to pay for cleaning above standard levels. Paragraph (3) also amends current law to clarify that while space and services for child care centers may be provided at no charge to the centers, that for those instances where parties have agreements for the payment of rent that that money may be used to reimburse GSA's Federal Buildings Fund. This proposed language would allow GSA to capture from its tenant agencies and other occupants of its buildings benefiting from a child care facility, any reimbursement costs for the provision of no-cost space and services to the facility.

Paragraph (4) of subsection (a) would amend 40 U.S.C. § 590(d)(3) to allow private entities to provide funds to help defray operating expenses or tuition assistance programs at existing Federal child care facilities in exchange for reserving enrollment spaces at the facility.

Paragraphs (5) and (6) of subsection (a) would modify 40 U.S.C. § 590(d)(2) and (e) to allow agencies to pay for the costs of training, such as registration fees, in addition to travel, transportation and subsistence costs.

Subsection (b) would further amend 40 U.S.C. § 590 by adding a new subsection (h). The new subsection would provide authority for agencies to enter into partnerships with non-federal entities to provide spaces to Federal employees in private child care

facilities when establishing a Federal facility is not economically feasible. Agencies would be authorized to provide "services" as defined in subsections 590 (c), (d), or (e), or assistance with criminal history background checks as required by subsection (f), in exchange for the provision of the spaces. The private facility would be required to be licensed by the State or local jurisdiction in order for the agency to consider entering into a partnership with the private entity.

Subsection (c) would also amend 40 U.S.C. 590 by adding a new subsection (i). This new subsection would provide authority for Federal agencies to conduct pilot projects not otherwise authorized by law to test new methods of providing quality child care to Federal employees. After obtaining approval of the Agency Head, each pilot project would be authorized to be conducted for a period of two year, with the possibility of a two-year extension. At the end of the initial two year period, the agency conducting the pilot project must perform an evaluation of the project. If, after the two-year extension, the agency head determines that the pilot project is successful the agency head is authorized to make the project permanent.

Sec. 303. Clean Air Act Incentive Reporting Revision.

Section 303 would amend 5 U.S.C. § 7905 by deleting the requirement that the President designate one or more agencies to prepare and submit a report every 2 years on the efforts of Federal agencies to promote and encourage commuting by means other than single occupancy motor vehicles. Since 1993 GSA has been tasked with collecting and preparing this report. GSA has been assigned this reporting requirement. GSA recommends that the reporting requirement be sunset.

Sec. 304. Enhanced Contracting Authority for Renewable Energy.

The Federal Government is the nation's largest energy consumer and GSA is tasked with buying energy for virtually the entire civilian executive branch. The Energy Policy Act of 2005 requires that federal agencies purchase increasing percentages of renewable energy, up to 7.5% in FY 2013 and each fiscal year thereafter. New Executive Order 13423 requires that at least half of the statutorily required renewable energy consumed by the agency in a fiscal year comes from direct, new renewable sources, defined as sources of renewable energy placed into service after January 1, 1999.

Currently, GSA may enter into contracts for public utility services for ten years under authority found at 40 U.S.C. § 501(b)(1)(B). However, renewable power plant developers often need an energy purchase contract of up to twenty years in order to develop (finance) increased capacity. Without the authority to contract for energy from renewable energy providers for more than ten years, GSA is unable to benefit from the relatively inexpensive energy they would generate.

Section 304 would amend § 501(b)(1)(B) to allow GSA to enter into contract for public utility services for periods not more than 10 years; but the provision would also allow GSA to enter into contracts for renewable energy utility services for periods up to 20 years. The term "renewable energy" is defined to mean electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current and thermal sources), geothermal, municipal waste or new hydroelectric generation capacity achieved from increased efficiency or expanded capacity at an existing hydroelectric project.