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DISPOSITION OF MILITARY EQUIPMENT

House Bill 5888 (Substitute H-1)
First Analysis (5-28-02)

Sponsor: Rep. Larry Julian
Committee: Veterans Affairs

THE APPARENT PROBLEM:

Federal law (section 2572 of title 10 of the United States Code) permits the Secretaries of the Army, Navy, Air Force, and the Secretary of the Department of Transportation (acting on behalf of the Coast Guard) to lend or give away certain historical documents and demilitarized equipment that are no longer needed. The military departments and Coast Guard may give or lend books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat items. Authorized recipients or borrowers of such items include other governmental agencies, as well as various institutions, such as museums or historical societies, and veterans associations. In general, such agencies, institutions, and veterans groups have a strong interest in preserving such items and using them to promote public awareness of the important role that the military plays in defending American soil and securing national interests both domestically and abroad. And it seems reasonable to infer that this is the reason why military departments would donate the items rather than scrap them.

To make these expectations clear, the United States Army Materiel Command explains in literature promoting its "Static Display/Ceremonial Gift Program": "Our program provides excess and obsolete Army equipment as symbols of remembrance of those who served to preserve our Nation's commitment to freedom throughout the world. Army material, properly displayed, may also inspire young Americans to pursue military careers. Our concern is to portray a good image of the U.S. Military through its materiel, while protecting public safety. Your responsibility as a recipient of Government materiel is to display and maintain it in such a way that honors and upholds the image of the United States, our military forces and its veterans." To ensure this effect, the Army Material Command requires recipients to sign an agreement stating that the recipient will give written notice to the Command if it stops using the donated items for display purposes or if it no longer wishes to keep the items.

Upon giving such notice, the recipient forfeits its claim to the items, and the Command may retake possession of the items. Further, the agreement requires recipients to agree that they will not transfer, dispose of, or redonate items acquired through the program unless they receive the Army Material Command's written consent.

Reportedly, some recipients of military documents and artifacts fail to comply with the law or with agreements such as that which the U.S. Army Material Command requires recipients to sign. Other recipients appear to be disposing of property in compliance with the law and agreements only to find that the persons to whom they gave the property were acting in violation of at least the spirit, if not the letter, or the law or agreements. For instance, according to testimony from a representative of the Sons of Union Veterans of the Civil War, one well known "broker" from Pennsylvania has bought Civil War-era cannons for \$10,000-\$15,000, given the sellers replica cannons, and then resold the cannons for \$50,000 and more. According to a news report, the broker allegedly misled one seller by saying that the cannon would be on permanent display in one town when in fact the broker sold the cannon to a museum in another town that is open by appointment only. Here in Michigan, a cemetery in Bay City allegedly sold a cannon that had been dedicated as a war memorial, and some people have suggested that the sale was illegal or at least not conducted in conformity with the spirit of the law. Moreover, some people have even stolen cannons, presumably to resell them to antique collectors who may or may not be aware of restrictions on disposition of such items. Legislation has been introduced to ensure that the original recipients of demilitarized military equipment and artifacts comply with federal law and agreements made with the donating military department and to ensure that a recipient of equipment and artifacts from a donor who cannot be identified (e.g., the recipient of stolen or otherwise

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illegally acquired property) properly disposes of the items.

THE CONTENT OF THE BILL:

The bill would create a new act to provide for the disposition of demilitarized military equipment and artifacts. Specifically, the bill would require the recipient of such equipment from a federal agency to display the equipment in accordance with the agreement with the donor under the grant of conditional title. If the recipient no longer wished to keep the equipment or artifacts, he or she would have to return the equipment in accordance with federal law. If the donor of the equipment could not be identified, the equipment would be disposed of in accordance with section 2572 of Title 10 of the United States Code. (See above.)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no direct fiscal impact on state or local government. (5-23-02)

ARGUMENTS:

For:

Demilitarized equipment and artifacts made available to institutions and groups that wish to promote the historic and future importance of the role that the military plays in the nation's well-being should remain in the hands of those institutions and groups or at least in the hands of other institutions and groups who are similarly inclined. If the federal government wanted private collectors to have the items, it could conduct its own antique sales and auctions and reinvest the profits in strengthening the military. Although federal law and agreements made under federal law already restrict the future disposition of donated items, the state is not explicitly authorized to take steps to prevent and remedy the improper disposition of such items. The bill would provide the state with a means of combating shady and illegal sales of cannons and other items and would provide a basis for state authorities to confiscate and return them or dispose of them in another manner that conforms to the spirit of federal law. The bill would also bring attention to the issue, reminding recipients of military equipment and artifacts of their obligations. As Memorial Day approaches and recedes, it is important to reaffirm the state's commitment to veterans and current military personnel by protecting and promoting the various tools of their honorable trade.

Response:

The bill sets forth no penalties for violations and it also does not give any state agency jurisdiction over matters that the bill deals with. The Department of Military and Veterans Affairs (DMVA), which presumably would have jurisdiction, has expressed concern that it might be required to store and pay for the transportation costs associated with properly disposing of military equipment and artifacts recovered under the bill. The DMVA is also concerned about how the bill would deal with changes made to the federal law.

POSITIONS:

The American Legion of Michigan supports the bill. (5-23-02)

The Commanders Group supports the bill. (5-23-02)

The Department of Military and Veterans Affairs does not oppose to the bill. (5-23-02)

Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.