

PROVIDING FOR CONSIDERATION OF H.R. 1588, NATIONAL
DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

MAY 20, 2003.—Referred to the House Calendar and ordered to be printed

Mrs. MYRICK, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 245]

The Committee on Rules, having had under consideration House Resolution 245, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004, under a structured rule. The rule provides two hours of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute recommended by the Committee on Armed Services.

The rule makes in order only those amendments printed in this report. The rule provides that amendments will be considered only in the order specified in this report (except as specified in section 2 of the resolution), may be offered only by a Member designated in this report, shall be debatable for the time specified in this report, shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment), shall be considered as read, and shall not be subject to a demand for division of the question. The rule waives all points of order against amendments printed in this report.

The rule allows the Chairman of the Committee of the Whole to recognize for the consideration of any amendment printed in the report out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

The rule provides that during consideration of the bill under this resolution or by a subsequent order of the House that after a motion that the Committee rise or after a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII) has been rejected on a legislative day, the Chairman of the Committee of the Whole may entertain another such motion on that day only if offered by the chairman of the Committee on Armed Services or the Majority Leader.

Finally, the rule provides that, after disposition of the amendments printed in the report, the Committee of the Whole shall rise without motion and no further consideration of the bill shall be in order except by a subsequent order of the House.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 74

Date: May 20, 2003.

Measure: H.R. 1588—National Defense Authorization Act for Fiscal Year 2004.

Motion by: Mr. Frost.

Summary of motion: To make in order the amendment offered by Representative Ackerman, which encourages the Department of Defense and the Navy to engage with the government of Israel and the Israel Defense Forces to establish appropriate and effective arrangements to ensure the safety of U.S. Navy vessels and personnel, and subsequently, to resume regular port visits to Haifa, Israel, by the U.S. Sixth Fleet.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee Record Vote No. 75

Date: May 20, 2003.

Measure: H.R. 1588—National Defense Authorization Act for Fiscal Year 2004.

Motion by: Mr. Hastings of Florida.

Summary of motion: To not make in order the amendment offered by Representative Goode, which authorizes the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist the Department of Homeland Security in the performance of border protections functions.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay;

Reynolds—Nay; Frost—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee Record Vote No. 76

Date: May 20, 2003.

Measure: H.R. 1588—National Defense Authorization Act for Fiscal Year 2004.

Motion by: Mr. McGovern.

Summary of motion: To not make in order the amendment offered by Representative Hunter, which makes technical changes and includes clarification that no employee of DoD Inspector General who was transferred to a Special Court of the United Nations shall be subject to Hatch Act enforcement. Also makes a change regarding sole source contracts. Strikes Section 317(a), and would leave the section of the Endangered Species Act in its present form (i.e., “prudent and determinable”). Strikes Section 318(a), and would confine the new definition of “harassment” to “military readiness activity.”

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee Record Vote No. 77

Date: May 20, 2003.

Measure: H.R. 1588—National Defense Authorization Act for Fiscal Year 2004.

Motion by: Mr. McGovern.

Summary of motion: To make in order the amendment offered by Representatives Rahall and Dingell, which strikes limitation on Endangered Species Act (ESA) critical habitat designations unrelated to the Department of Defense. Prohibits designation of critical habitat on military lands under the ESA when Defense Department conservation plans for threatened and endangered species meet specified criteria. Clarifies that any impact on national security will be considered when designating critical habitat. Codifies the National Research Council’s 2000 definition of the term “harassment” under the Marine Mammal Protection Act (MMPA), but only as applicable to military activities. Provides for Defense Department national security exemptions from the MMPA if sought by the President during war or times of declared national emergencies. Strikes changes to MMPA “incidental take” standards. Strikes special exemption from ESA compliance at Fort Huachuca, Arizona.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. Hunter: Makes technical changes and includes clarification that no employee of DoD Inspector General who was transferred to a Special Court of the United Nations shall be subject to Hatch Act

enforcement. Also makes a change regarding sole source contracts. Strikes Section 317(a), and would leave the section of the Endangered Species Act in its present form (i.e., “prudent and determinable”). Strikes Section 318(a), and would confine the new definition of “harassment” to “military readiness activity.” (10 minutes)

2. Goode: Authorizes the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist the Department of Homeland Security in the performance of border protection functions. (20 minutes)

3. Sanchez, Loretta (CA): Permits Department of Defense facilities, not located in the United States, to perform abortions. (30 minutes)

4. Tauscher: Transfers \$15 million for the Robust Nuclear Earth Penetrator and the \$6 million for additional and exploratory studies under the Advanced Concepts Initiative to conventional programs to defeat hardened and deeply buried targets. (20 minutes)

5. Hoeffel: Requires the President to submit an annual report on the number of strategic nuclear warheads that have been dismantled in the previous calendar year and that will be dismantled in the coming year. The requirement would commence upon completion of the Moscow Treaty. (10 minutes)

6. Goss: Requires the Secretary of Defense to report on appropriate steps that could be taken by Department of Defense in response to nations that attempt to commence legal proceedings against any current or former official or employee of the United States relating to the performance of official duties. (20 minutes)

7. Goss: Requires a study by the Secretary of Defense to conduct an assessment of U.S. costs associated with the location of the headquarters of the North Atlantic Treaty Organization (NATO) in Brussels, Belgium, and the costs and benefits of relocating the headquarters to a suitable location in another NATO member country, including those nations invited to join NATO at the Prague summit in 2002. (20 minutes)

8. Saxton: Repeals the statutory requirement that an officer serving as defense attache to France must hold, or be on the promotion list, the grade or brigadier general or rear admiral, lower half. (10 minutes)

9. Hunter: Sense of Congress regarding changes within NATO (i.e., the expansion to include former Soviet-bloc member states). Asks President to reevaluate U.S. defense posture in Europe in order to take maximum advantage of basing and training ops in the territory of new NATO members. (20 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HUNTER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 34, line 15, strike the first period.

Page 90, line 17, insert open quotation marks before “subparagraph”.

Page 99, line 7, strike the open quotation marks.

Page 125, line 5, strike “551” and insert “991”.

Page 136, beginning on line 4, strike “chapter” and insert “subchapter”.

Strike section 617(b)(2) (page 165, line 19, through the matter following line 6 on page 166) and insert the following:

(2) The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 40 of such title, are each amended by striking the sixth word.

Page 210, line 12, strike the single open and close quotation marks and insert double open and close quotation marks.

Page 213, line 25, insert “of such section” after “Subsection (c)”.

Page 219, beginning on line 18, strike “the end”.

Page 220, line 8, strike “adding at the end” and insert “inserting after the item relating to section 2435”.

Page 227, line 5, strike “(d)” and insert “(d)(3)”.

Page 229, line 14, strike “**Unites**” and insert “**United**”.

Page 231, line 14, strike “Department of” and all that follows through “amounts” on line 15 and insert “Department of Defense such amounts”.

Page 231, line 18, strike “; and” and insert a period.

Page 231, strike lines 19 and 20.

Page 232, in the matter after line 16, strike “Unites” and insert “United”.

In section 1012(b)(1) (page 253, line 13), insert “the end of such subsection” after “through”.

In section 1014(b)(1) (page 257, line 2), strike “this title” and insert “title XXXV”.

Page 262, line 20, insert a one-em dash after the period.

Page 264, line 11, strike “2216(a)” and insert “2216(i)”.

Page 264, line 15, insert “(1)” before “Not later than”.

Page 271, line 11, strike “striking ‘by’”.

Page 275, line 19, strike “2868” and insert “2868(a)”.

In section 1031(d), strike paragraph (2) (page 290, lines 13-15) and insert the following:

(2) Nothing in this section shall be construed to authorize the Secretary to acquire, lease, construct, improve, renovate, remodel, repair, operate, or maintain facilities having general utility.

Page 299, line 6, strike “after section 425” and insert “at the end of subchapter I (after the section added by section 805(b)(1) of this Act)”.

Page 299, line 8, strike “**426**” and insert “**427**”.

Page 301, line 20, after “at the end” insert “(after the item added by section 805(b)(2) of this Act”.

Page 301, in the matter after line 21, strike “426” and insert “427”.

Page 303, beginning on line 11, strike “such subchapter” and insert “subchapter I of such chapter”.

In section 1045(a)(7), strike “7503(d)” (page 310, line 16) and insert “7305(d)”.

In section 1045(e), strike “819” (page 311, line 25) and insert “819(a)”.

In section 317, strike subsection (a) (page 59, lines 18 through 21) and redesignate subsequent subsections accordingly.

In section 318, strike subsection (a) (page 61, lines 3 through 18) and insert the following new subsection:

(a) DEFINITION OF HARASSMENT FOR MILITARY READINESS ACTIVITIES.—Section 3(18) of the Marine Mammal Protection Act of 1972

(16 U.S.C. 1362(18)) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

“(B) In the case of a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the term ‘harassment’ means—

“(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

“(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

“(C) The term ‘Level A harassment’ means harassment described in subparagraph (A)(i) or, in the case of a military readiness activity, harassment described in subparagraph (B)(i).

“(D) The term ‘Level B harassment’ means harassment described in subparagraph (A)(ii) or, in the case of a military readiness activity, harassment described in subparagraph (B)(ii).”

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODE OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of title X (page 11, after line 11), insert the following new section:

SEC. 11. ASSIGNMENT OF MEMBERS TO ASSIST BUREAU OF BORDER SECURITY AND BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

“§ 374a. Assignment of members to assist border patrol and control

“(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

“(1) the Bureau of Border Security of the Department of Homeland Security in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

“(2) the United States Customs Service of the Department of Homeland Security in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

“(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

“(1) the assignment is at the request of the Secretary of Homeland Security; and

“(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

“(c) TRAINING PROGRAM REQUIRED.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

“(d) CONDITIONS OF USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Border Security or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

“(2) Nothing in this section shall be construed to—

“(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

“(B) supersede section 1385 of title 18 (popularly known as the ‘Posse Comitatus Act’).

“(e) ESTABLISHMENT OF ONGOING JOINT TASK FORCES.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

“(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

“(f) NOTIFICATION REQUIREMENTS.—The Secretary of Homeland Security shall provide to the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

“(g) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

“(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2005.”.

(b) COMMENCEMENT OF TRAINING PROGRAM.—The training program required by subsection (b) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

“374a. Assignment of members to assist border patrol and control.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LORETTA SANCHEZ OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 30 MINUTES

At the end of title VII (page 196, after line 12), add the following new section:

SEC. 708. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting “in the United States” after “Defense”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TAUSCHER OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of subtitle A of title II (page 30, after line 7), insert the following new section:

SEC. 211. FUNDING REDUCTIONS AND INCREASES.

(a) INCREASE.—The amount provided in section 201 for research, development, test, and evaluation is hereby increased by \$21,000,000, of which—

(1) \$5,000,000 shall be available for Program Element 0603910D8Z, strategic capability modernization;

(2) \$6,000,000 shall be available for Program Element 0602602F, conventional munitions; and

(3) \$10,000,000 shall be available for Program Element 0603601F, conventional weapons technology.

(b) REDUCTION.—The amount provided in section 3101 for stockpile research and development is hereby reduced by \$21,000,000, of which—

(1) \$15,000,000 shall be derived from the feasibility and cost study of the Robust Nuclear Earth Penetrator; and

(2) \$6,000,000 shall be derived from advanced concepts initiative activities.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOFFEL OF PENNSYLVANIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title X (page 333, after line 21), insert the following new section:

SEC. 11. REPORT CONCERNING STRATEGIC NUCLEAR WARHEADS DISMANTLED PURSUANT TO THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE RUSSIAN FEDERATION ON STRATEGIC OFFENSIVE REDUCTIONS.

Not later than 60 days after the exchange of instruments of ratification of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions or 60 days after the date of the enactment of this Act, whichever occurs last, and on February 15 of each subsequent year, the President shall submit to Congress a report concerning any strategic nuclear warheads dismantled within the boundaries of the treaty during the preceding calendar year and any such warheads to be dismantled in that calendar year, pursuant to such treaty. During the one-year period beginning on the date of the exchange of instruments of ratification of such treaty, any such report shall not include in-

formation concerning any dismantling of warheads during the preceding calendar year.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOSS OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of title XII (page 384, after line 3), insert the following new section:

SEC. 11. REPORT ON ACTIONS THAT COULD BE TAKEN REGARDING COUNTRIES THAT INITIATE CERTAIN LEGAL ACTIONS AGAINST UNITED STATES OFFICIALS.

(a) FINDING.—Congress finds that actions for or on behalf of a foreign government that constitute attempts to commence legal proceedings against, or attempts to compel the appearance of or production of documents from, any current or former official or employee of the United States or member of the Armed Forces of the United States relating to the performance of official duties constitutes a threat to the ability of the United States to take necessary and timely military action.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on appropriate steps that could be taken by the Department of Defense (including restrictions on military travel and limitations on military support and exchange programs) to respond to any action by a foreign government described in subsection (a).

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOSS OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of title XII (page 384, after line 3), insert the following new section:

SEC. 11. ASSESSMENT AND REPORT CONCERNING THE LOCATION OF NATO HEADQUARTERS.

(a) ASSESSMENT.—The Secretary of Defense shall conduct a full and complete assessment of costs to the United States associated with the location of the headquarters of the North Atlantic Treaty Organization (NATO) in Brussels, Belgium, and the costs and benefits of relocating that headquarters to a suitable location in another NATO member country, including those nations invited to join NATO at the Prague summit in 2002. The Secretary shall conduct such assessment in consultation with the Secretary of State.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report of the findings of the assessment under subsection (a).

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SAXTON OF NEW JERSEY, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle B of title V (page 91, after line 16), insert the following new section:

SEC. 514. REPEAL OF REQUIRED GRADE OF DEFENSE ATTACHÉ IN FRANCE.

(a) IN GENERAL.—Section 714 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of such title is amended by striking the item relating to section 714.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HUNTER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of title XII (page 384, after line 3), insert the following new section:

SEC. 11. SENSE OF CONGRESS ON REDEPLOYMENT OF UNITED STATES FORCES IN EUROPE

(a) FINDINGS.—Congress makes the following findings:

(1) In March 1999, in its initial round of expansion, the North Atlantic Treaty Organization (NATO) admitted Poland, the Czech Republic, and Hungary to the Alliance.

(2) At the Prague Summit on November 21–22, 2002, the NATO heads of state and government invited the countries of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the Alliance.

(3) The countries admitted in the initial round of expansion referred to in paragraph (1) and the seven new invitee nations referred to in paragraph (2) will in combination significantly alter the nature of the Alliance.

(4) During the first 50 years of the Alliance, NATO materially contributed to the security and stability of Western Europe, bringing peace and prosperity to the member nations.

(5) The expansion of NATO is an opportunity to assist the invitee nations in gaining the capabilities to ensure peace, prosperity, and democracy for themselves during the next 50 years of the Alliance.

(6) The military structure and mission of NATO has changed, no longer being focused on the threat of a Soviet invasion, but evolving to handle new missions in the area of crisis management, peacekeeping, and peace-support in the Euro-Atlantic area of operations.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the expansion of the North Atlantic Treaty Organization Alliance and the evolution of the military mission of that Alliance requires a fundamental reevaluation of the current posture of United States forces stationed in Europe; and

(2) the President should—

(A) initiate a reevaluation referred to in paragraph (1); and

(B) in carrying out such a reevaluation, consider a military posture that takes maximum advantage of basing and training opportunities in the newly admitted and invitee

states referred to in paragraphs (1) and (2), respectively,
of subsection (a).

