

The PRESIDING OFFICER. Under the previous order, the nominations are confirmed. The President will be immediately notified of the Senate's action.

NOMINATION OF DANNY C. REEVES

Mr. BUNNING. Mr. President, I thank my colleagues for their support of the nomination of Danny Reeves to be a Federal District Judge for the Eastern District of Kentucky.

Danny is a Kentucky native. He grew up in Corbin in the eastern part of our Commonwealth, and later went to college at Eastern Kentucky University. He then graduated with honors from the Chase Law School in northern Kentucky, and clerked for one of Kentucky's leading jurists on the Federal bench, Gene Siler.

Since then, Danny has practiced exclusively at a prominent Kentucky firm, specializing in complex civil litigation. In that time, he has not only represented a number of Kentucky's leading businesses, but he has also done a great deal of community service work, focusing on title IX compliance for the Kentucky High School Athletic Association.

To be honest, I did not know Danny before I sat down earlier this year to talk with him about his interest in sitting on the Federal bench. But in the conversations we have had, it became clear that he is a bright, articulate lawyer who has the demeanor and integrity to be a fine judge. I enthusiastically support his nomination.

I thank my colleagues for voting for this nomination. Danny Reeves knows the people of eastern Kentucky, he knows the law and he knows how the Federal bench in the Eastern District works. He is going to be able to hit the ground running, and he is going to do an exemplary job. The President made a fine choice in nominating him, and the sooner the Senate can confirm him, the better it will be for justice in Kentucky.

NOMINATION OF JOSEPH L. HEATON

Mr. NICKLES. Mr. President, I am pleased the Senate has just confirmed Joe Heaton, an outstanding individual and a superb attorney, to be U.S. district court judge for Oklahoma's Western District.

President Bush could not have made a finer selection to serve our country as a district court judge. Joe Heaton is exceptionally well qualified and will prove to be a great asset to the judicial system in Oklahoma and our country.

Joe graduated from Northwestern State College in his home town of Alva, OK, in 1973. Even before his graduation, Joe's commitment to public service was already evident. While still in school, he was elected to the Alva City Council and later was elected to serve as council president. Following graduation from college, Joe attended the University of Oklahoma School of Law where he excelled, making Oklahoma Law Review and Order of the Coif. He was also on the Dean's honor roll and won American Jurisprudence Awards

in Constitutional Law and Conflicts of Law. Upon his graduation from law school Joe continued to dedicate himself to public service, this time coming here to Washington to serve as Legislative Assistant to Senator Dewey Bartlett.

Returning to Oklahoma in 1977 he practiced law with the prestigious firm of Fuller, Tubb & Pomeroy. He is respected by his colleagues as an "honest and trustworthy leader and friend." While engaged in civil practice, Joe was elected to the Oklahoma House of Representatives where he served until 1992. In this capacity as a State legislator, Joe served as the Republican leader for 3 years. His fellow legislators have described him as possessing the qualities needed on the Federal bench.

In 1991, I was pleased to recommend Joe's appointment to serve as U.S. attorney for the Western District of Oklahoma. He joined the U.S. attorney's office as a special assistant U.S. attorney and served in that capacity until 1992 when he became the U.S. attorney. In 1993, Joe returned to private practice until 1996 when then U.S. attorney, Patrick Ryan, asked him to return to the U.S. attorney's office. For the next 2 years, Joe was acting U.S. attorney while Mr. Ryan was in Denver in connection with the Oklahoma City bombing trials of Timothy McVeigh and Terry Nichols. Once again, Joe exhibited his strong commitment to serving Oklahoma and the Nation.

Joe and his wife Dee Anne are very active in their church where Joe serves as an Elder. They are proud of their two sons, Andrew and Adam. I congratulate Joe and his family on his having earned the position for which President Bush has selected him. I thank Chairman LEAHY and Ranking Member HATCH for their work on Joe Heaton's nomination. I applaud the Senate for confirming him as he will make an outstanding judge who will work diligently to administer justice while serving as a Federal district court judge.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AGRICULTURAL CONSERVATION AND RURAL ENHANCEMENT ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will resume consideration of the motion to proceed to S. 1731, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to consider S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, provide for farm credit, agricultural research, nutrition, and related programs, and to ensure consumers abundant food and fiber.

The PRESIDING OFFICER. The Senate will be in order. Under the previous order, the motion to proceed is agreed to. The motion to reconsider is laid upon the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3338, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:*

TITLE I  
MILITARY PERSONNEL  
MILITARY PERSONNEL, ARMY

*For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$23,446,734,000.*

MILITARY PERSONNEL, NAVY

*For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$19,465,964,000.*

MILITARY PERSONNEL, MARINE CORPS

*For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$7,335,370,000.*

MILITARY PERSONNEL, AIR FORCE

*For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements),*

and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$20,032,704,000.

#### RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,670,197,000.

#### RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,650,523,000.

#### RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$466,300,000.

#### RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,061,160,000.

#### NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty

specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$4,052,695,000.

#### NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,783,744,000.

## TITLE II

#### OPERATION AND MAINTENANCE

#### OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$22,941,588,000.

#### OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,569,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$27,038,067,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$2,903,863,000.

#### OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$26,303,436,000.

#### OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$12,864,644,000, of which not to exceed \$25,000,000 may be available for the CINC initiative fund account; and of which not to exceed \$33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

#### OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,771,246,000.

#### OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,003,690,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$144,023,000.

#### OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,023,866,000.

#### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$3,743,808,000.

#### OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$3,998,361,000.

#### UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$9,096,000, of which not to exceed \$2,500 can be used for official representation purposes.

#### ENVIRONMENTAL RESTORATION, ARMY

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$389,800,000, to remain available until transferred: Provided,

That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

**ENVIRONMENTAL RESTORATION, NAVY  
(INCLUDING TRANSFER OF FUNDS)**

For the Department of the Navy, \$257,517,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

**ENVIRONMENTAL RESTORATION, AIR FORCE  
(INCLUDING TRANSFER OF FUNDS)**

For the Department of the Air Force, \$385,437,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

**ENVIRONMENTAL RESTORATION, DEFENSE-WIDE  
(INCLUDING TRANSFER OF FUNDS)**

For the Department of Defense, \$23,492,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

**ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES  
(INCLUDING TRANSFER OF FUNDS)**

For the Department of the Army, \$230,255,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling

of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

**OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID**

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), \$44,700,000, to remain available until September 30, 2003.

**FORMER SOVIET UNION THREAT REDUCTION**

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contracts, \$357,000,000, to remain available until September 30, 2004: Provided, That of the amounts provided under this heading, \$15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

**SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE**

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), \$15,800,000, to remain available until expended.

**TITLE III  
PROCUREMENT  
AIRCRAFT PROCUREMENT, ARMY**

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,893,891,000, to remain available for obligation until September 30, 2004.

**MISSILE PROCUREMENT, ARMY**

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$8,030,043,000, to remain available for obligation until September 30, 2004.

vate plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,774,154,000, to remain available for obligation until September 30, 2004.

**PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY**

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,174,546,000, to remain available for obligation until September 30, 2004.

**PROCUREMENT OF AMMUNITION, ARMY**

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,171,465,000, to remain available for obligation until September 30, 2004.

**OTHER PROCUREMENT, ARMY**

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$4,160,186,000, to remain available for obligation until September 30, 2004.

**AIRCRAFT PROCUREMENT, NAVY**

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$8,030,043,000, to remain available for obligation until September 30, 2004.

**WEAPONS PROCUREMENT, NAVY**

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support

equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$1,478,075,000, to remain available for obligation until September 30, 2004.

**PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS**

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$442,799,000, to remain available for obligation until September 30, 2004.

**SHIPBUILDING AND CONVERSION, NAVY**

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), \$138,890,000;  
SSGN (AP), \$279,440,000;  
NSSN, \$1,608,914,000;  
NSSN (AP), \$684,288,000;  
CVN Refuelings, \$1,118,124,000;  
CVN Refuelings (AP), \$73,707,000;  
Submarine Refuelings, \$382,265,000;  
Submarine Refuelings (AP), \$77,750,000;  
DDG-51 destroyer program, \$2,966,036,000;  
Cruiser conversion (AP), \$458,238,000;  
LPD-17 (AP), \$155,000,000;  
LHD-8, \$267,238,000;  
LCAC landing craft air cushion program, \$52,091,000;

Prior year shipbuilding costs, \$725,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, \$307,230,000;

In all: \$9,294,211,000, to remain available for obligation until September 30, 2006: Provided, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

**OTHER PROCUREMENT, NAVY**

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except

ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$200,000 per unit for two units and not to exceed \$115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$4,146,338,000, to remain available for obligation until September 30, 2004.

**PROCUREMENT, MARINE CORPS**

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$8,144,174,000, to remain available for obligation until September 30, 2004.

**AIRCRAFT PROCUREMENT, AIR FORCE**

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$10,617,332,000, to remain available for obligation until September 30, 2004.

**MISSILE PROCUREMENT, AIR FORCE**

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$3,657,522,000, to remain available for obligation until September 30, 2004.

**PROCUREMENT OF AMMUNITION, AIR FORCE**

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and pri-

vate plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$873,344,000, to remain available for obligation until September 30, 2004.

**OTHER PROCUREMENT, AIR FORCE**

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$8,144,174,000, to remain available for obligation until September 30, 2004.

**PROCUREMENT, DEFENSE-WIDE**

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$1,473,795,000, to remain available for obligation until September 30, 2004.

**DEFENSE PRODUCTION ACT PURCHASES**

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$15,000,000 to remain available until expended.

**NATIONAL GUARD AND RESERVE EQUIPMENT**

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$560,505,000, to remain available for obligation until September 30, 2004: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

**TITLE IV**

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION**

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY**

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$6,742,123,000, to remain available for obligation until September 30, 2003.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY**

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation,

lease, and operation of facilities and equipment, \$10,742,710,000, to remain available for obligation until September 30, 2003.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE**

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$13,859,401,000, to remain available for obligation until September 30, 2003.

**RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE**

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$14,445,589,000, to remain available for obligation until September 30, 2003.

**OPERATIONAL TEST AND EVALUATION, DEFENSE**

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$216,855,000, to remain available for obligation until September 30, 2003.

**TITLE V**

**REVOLVING AND MANAGEMENT FUNDS**

**DEFENSE WORKING CAPITAL FUNDS**

For the Defense Working Capital Funds, \$1,826,986,000: Provided, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

**NATIONAL DEFENSE SEALIFT FUND**

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), \$407,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

**TITLE VI**

**OTHER DEPARTMENT OF DEFENSE PROGRAMS**

**DEFENSE HEALTH PROGRAM**

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$18,376,404,000, of which \$17,656,185,000 shall be

for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which \$267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which \$452,304,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation.

**CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY**

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,104,557,000, of which \$739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, \$164,158,000 shall be for Procurement to remain available until September 30, 2004, and \$201,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

**DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE**  
(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$865,981,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

**OFFICE OF THE INSPECTOR GENERAL**

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$152,021,000, of which \$150,221,000 shall be for Operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$1,800,000 to remain available until September 30, 2004, shall be for Procurement.

**TITLE VII**  
**RELATED AGENCIES**

**CENTRAL INTELLIGENCE AGENCY**  
**CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND**

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$212,000,000.

**INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT**  
**INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT**  
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$144,776,000, of which \$28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: Provided, That such authority to transfer may

the funds appropriated under this heading, \$27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2004, and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

**PAYMENT TO KAHOLALEWAE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND**

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, \$75,000,000, to remain available until expended.

**NATIONAL SECURITY EDUCATION TRUST FUND**  
**GENERAL PROVISIONS—DEPARTMENT OF DEFENSE**

For the purposes of title VIII of Public Law 102-183, \$8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

**TITLE VIII**

**SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.**

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

**(TRANSFER OF FUNDS)**

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may

not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to March 31, 2002.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C-17; and

F/A-18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2003.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have re-enlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the

analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services

required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8021. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than \$61,100,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which \$3,300,000 shall be available from "Military Personnel, Air Force", \$37,400,000 shall be available from "Operation and Maintenance, Air Force", and \$20,400,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B-52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services re-

sponsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350(j)(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than \$24,303,000 shall be available for the Civil Air Patrol Corporation, of which \$22,803,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes \$1,500,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$60,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of

Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account estab-

lished under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2002, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2003 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2002.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justifica-

tion material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, \$10,000,000 is hereby appropriated to the Department of Defense: Provided, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: Provided further, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. During the current fiscal year and hereafter, funds appropriated or made available by the transfer of funds in this or subsequent Appropriations Acts, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) until the enactment of the Intelligence Authorization Act for that fiscal year and funds appropriated or made available by transfer of funds in any subsequent Supplemental Appropriations Act enacted after the enactment of the Intelligence Authorization Act for that fiscal year are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8054. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

#### (RESCSSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the fol-

lowing funds are hereby rescinded as of the date of the enactment of this Act from the following accounts in the specified amounts:

“Aircraft Procurement, Army, 2001/2003”, \$15,500,000;

“Aircraft Procurement, Air Force, 2001/2003”, \$43,983,000;

“Missile Procurement, Air Force, 2001/2003”, \$58,500,000;

“Procurement, Defense-Wide, 2001/2003”, \$64,170,000;

“Research, Development, Test and Evaluation, Air Force, 2001/2002”, \$13,450,000; and

“Research, Development, Test and Evaluation, Defense-Wide, 2001/2002”, \$5,664,000.

SEC. 8056. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8057. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8058. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8059. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8060. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8061. Of the funds made available under the heading “Operation and Maintenance, Air Force”, \$12,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8062. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

#### (TRANSFER OF FUNDS)

SEC. 8063. Appropriations available in this Act under the heading “Operation and Mainte-

nance, Defense-Wide” for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8064. None of the funds made available in this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of “commercial items”, as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8065. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8066. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8067. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8068. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8069. Of the funds made available in this Act under the heading “Operation and Maintenance, Defense-Wide”, up to \$5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: Provided further, That up to \$2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to

non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8070. (a) **LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.**—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) **COVERED ACTIVITIES.**—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) **REQUIRED NOTICE.**—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8071. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8072. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8073. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8074. Up to \$3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8076. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and re-

pair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8083. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8084. Of the funds made available under the heading "Operation and Maintenance, Air Force", not less than \$1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8085. In addition to the amounts appropriated or otherwise made available in this Act, \$5,000,000, to remain available until September

30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of \$5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8086. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8087. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50-65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8088. Funds made available to the Civil Air Patrol in this Act under the heading “Drug Interdiction and Counter-Drug Activities, Defense” may be used for the Civil Air Patrol Corporation’s counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: Provided, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8089. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106-259), is hereby repealed.

SEC. 8090. Of the funds appropriated in this Act under the heading “Research, Development, Test and Evaluation, Navy”, up to \$3,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8091. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may

waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8092. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$140,591,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

“Operation and Maintenance, Army”, \$89,359,000;

“Operation and Maintenance, Navy”, \$15,445,000;

“Operation and Maintenance, Marine Corps”, \$1,379,000;

“Operation and Maintenance, Air Force”, \$24,408,000; and

“Operation and Maintenance, Defense-Wide”, \$10,000,000.

SEC. 8094. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8095. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by \$50,000,000: Provided, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: Provided further, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: Provided further, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8096. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8097. Notwithstanding any other provision of law, funds appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide” for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8098. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$171,296,000, to reduce cost growth in travel, to be distributed as follows:

“Operation and Maintenance, Army”, \$9,000,000;

“Operation and maintenance, Marine Corps”, \$296,000;

“Operation and Maintenance, Air Force”, \$150,000,000;

“Operation and Maintenance, Army Reserve”, \$2,000,000; and

“Operation and maintenance, Defense-wide” \$10,000,000.

SEC. 8099. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8100. (a) REGISTERING INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department’s Global Information Grid.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “Chief Information Officer” means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term “information technology system” has the meaning given the term “information technology” in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term “major automated information system” has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8101. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8102. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of “armor penetrator”, “armor piercing (AP)”, “armor piercing incendiary (API)”, or “armor-piercing incendiary-tracer (API-T)”, except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8103. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8104. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8105. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8106. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of \$10,000,000 is hereby appropriated for “Operation and Maintenance, Defense-Wide”, to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the amounts appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide”, \$141,700,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, \$107,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: Provided further, That the remainder, \$34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8109. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system’s modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. Of the amounts appropriated in this Act under the heading “Operation and Maintenance, Defense-Wide”, \$115,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8111. In addition to the amounts appropriated or otherwise made available in this Act, \$1,300,000,000 is hereby appropriated to the Department of Defense for whichever of the following purposes the President determines to be

in the national security interests of the United States:

- (1) research, development, test and evaluation for ballistic missile defense; and
- (2) activities for combating terrorism.

SEC. 8112. In addition to amounts appropriated elsewhere in this Act, \$5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of the Army shall make a grant in the amount of \$5,000,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, \$5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of \$5,000,000 to the National D-Day Museum.

SEC. 8114. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8115. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106-79) is amended—

- (1) by redesignating subsection (m) as subsection (o); and
- (2) by adding after subsection (l) the following:

“(m) AUTHORITY TO ESTABLISH MEMORIAL.—

“(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

“(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).”

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106-79) is amended—

- (1) in subsection (j)(2), by striking “accept gifts” and inserting “solicit and accept contributions”;
- (2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

“(n) MEMORIAL FUND.—

“(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

“(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

“(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.”

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, \$3,000,000, to remain available until expended is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of \$3,000,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, \$8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628-97-C-0105, Clear Radar Upgrade, at Clear AFS, Alaska: Provided, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: Provided further, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601-613, on any claims which the Secretary determines to have merit: Provided further, That

the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

SEC. 8117. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by \$1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: Provided, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

SEC. 8118. In addition to amounts provided elsewhere in this Act, \$21,000,000 is hereby appropriated for the Secretary of Defense to establish a Regional Defense Counter-terrorism Fellowship Program: Provided, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: Provided further, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: Provided further, That the Secretary of Defense shall establish rules to govern the administration of this program.

SEC. 8119. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, "Aircraft Procurement, Air Force", that remain available for obligation, not to exceed \$16,000,000 shall be available for recording, adjusting, and liquidating obligations for the C-17 aircraft properly chargeable to the fiscal year 1998 Aircraft Procurement, Air Force account: Provided, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for such purpose.

SEC. 8120. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94-579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

SEC. 8121. Of the amounts appropriated in this Act under the heading, "Shipbuilding and Conversion, Navy", \$725,000,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2002":

Carrier Replacement Program, \$172,364,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2002":

LPD-17 Amphibious Transport Dock Ship Program, \$172,989,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2002":

DDG-51 Destroyer Program, \$37,200,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

NSSN Program, \$168,561,000;

DDG-51 Destroyer Program, \$111,457,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

NSSN Program, \$62,429,000.

(TRANSFER OF FUNDS)

SEC. 8122. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

TRIDENT ballistic missile submarine program, \$78,000;

SSN-21 attack submarine program, \$66,000;

DDG-51 destroyer program, \$6,100,000;

ENTERPRISE refueling modernization program, \$964,000;

LSD-41 dock landing ship cargo variant ship program, \$237,000;

MCM mine countermeasures program, \$118,000;

Oceanographic ship program, \$2,317,000;

AOE combat support ship program, \$164,000;

AO conversion program, \$56,000;

Coast Guard icebreaker ship program, \$863,000;

Craft, outfitting, post delivery, and ship special support equipment, \$529,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

DDG-51 destroyer program, \$11,492,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

DDG-51 destroyer program, \$3,986,000;

LHD-1 amphibious assault ship program, \$85,000;

LSD-41 dock landing ship cargo variant program, \$428,000;

AOE combat support ship program, \$516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, \$1,034,000;

To:

Under the heading, "Shipbuilding, and Conversion, Navy, 1999/2002":

DDG-51 destroyer program, \$6,049,000;

From:

Under the heading, "Other Procurement, Navy, 2001/2003":

Shallow Water MCM, \$16,248,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2005":

Submarine Refuelings, \$16,248,000.

SEC. 8123. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1996, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn

by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

SEC. 8124. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the USS GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8125. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8126. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, \$15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of \$15,000,000 to the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8127. (a) DESIGNATED SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—

(1) Notwithstanding any other provision of law, at events determined by the President to be special events of national significance for which the United States Secret Service is authorized pursuant to Section 3056(e)(1), title 18, United States Code, to plan, coordinate, and implement security operations, the Secretary of Defense, after consultation with the Secretary of the Treasury, shall provide assistance on a temporary basis without reimbursement in support of the United States Secret Service's duties related to such designated events.

(2) Assistance under this subsection shall be provided in accordance with an agreement that shall be entered into by the Secretary of Defense and the Secretary of the Treasury within 120 days of the enactment of this Act.

(b) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided; and

(2) the amount expended by the Department in providing the assistance.

(c) RELATIONSHIP TO OTHER LAWS.—The assistance provided under this section shall not be subject to the provisions of sections 375 and 376 of this title.

SEC. 8128. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish a multi-year pilot program for leasing general purpose Boeing 767 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A-11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter

into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred aircraft for the purposes specified herein.

SEC. 8129. From within amounts made available in the Title II of this Act, under the heading “Operation and Maintenance, Army National Guard”, and notwithstanding any other provision of law, \$2,500,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8130. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of \$3,000,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8131. Notwithstanding any other provision of law, none of the funds in this Act may be used to alter specifications for insulation to be used on U.S. naval ships or for the procurement of insulation materials different from those in use as of November 1, 2001, until the Department of Defense certifies to the Appropriations Committees that the proposed specification changes or proposed new insulation materials will be as safe, provide no increase in weight, and will not increase maintenance requirements when compared to the insulation material currently used.

SEC. 8132. The provisions of S. 746 of the 107th Congress, as reported to the Senate on September 21, 2001, are hereby enacted into law.

SEC. 8133. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

**§2228. Department of Defense strategic loan and loan guaranty program**

(a) AUTHORITY.—The Secretary of Defense may carry out a program to make direct loans and guarantee loans for the purpose of supporting the attainment of the objectives set forth in subsection (b).

(b) OBJECTIVES.—The Secretary may, under the program, make a direct loan to an applicant or guarantee the payment of the principal and interest of a loan made to an applicant upon the Secretary's determination that the applicant's use of the proceeds of the loan will support the attainment of any of the following objectives:

(1) Sustain the readiness of the United States to carry out the national security objectives of the United States through the guarantee of steady domestic production of items necessary for low intensity conflicts and counter terrorism or other imminent threats to the national security of the United States.

(2) Sustain the economic stability of strategically important domestic sectors of the defense industry that manufacture or construct products for low-intensity conflicts and counter terrorism to respond to attacks on United States national security and to protect potential United States civilian and military targets from attack.

(3) Sustain the production and use of systems that are critical for the exploration and development of new domestic energy sources for the United States.

(c) CONDITIONS.—A loan made or guaranteed under the program shall meet the following requirements:

(1) The period for repayment of the loan may not exceed five years.

(2) The loan shall be secured by primary collateral that is sufficient to pay the total amount of the unpaid principal and interest of the loan in the event of default.

(d) EVALUATION OF COST.—As part of the consideration of each application for a loan or for a guarantee of the loan under the program, the Secretary shall evaluate the cost of the loan within the meaning of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(2) The table of sections at the beginning of such section is amended by adding at the end the following new item:

**“2228. Department of Defense strategic loan and loan guaranty program.”**

(b) Of the amounts appropriated by Public Law 107-38, there shall be available such sums as may be necessary for the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of direct loans and loan guarantees made under section 2228 of title 10, United States Code, as added by subsection (a).

SEC. 8134. REGULATION OF BIOLOGICAL AGENTS AND TOXINS. (a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

**“SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.**

(a) REGULATORY CONTROL OF BIOLOGICAL AGENTS AND TOXINS.—

(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent or toxin;

(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

(3) EXEMPTIONS.—The Secretary may exempt from the list under paragraph (1)—

(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.”;

(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological

agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

“(A) proper training and appropriate skills to handle such agents and toxins; and

“(B) proper laboratory facilities to contain and dispose of such agents and toxins;

“(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

“(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

“(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

“(c) POSSESSION AND USE OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

“(d) REGISTRATION AND TRACEABILITY MECHANISMS.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

“(e) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

“(f) EXEMPTIONS.—

“(1) IN GENERAL.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

“(A) the regulations issued under subsection (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements, and for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes are consistent with protecting public health and safety; and

“(B) the regulations issued under subsection (c) for agents and toxins that the Secretary determines do not present a threat for use in domestic or international terrorism, provided the exemptions are consistent with protecting public health and safety.

“(2) CLINICAL LABORATORIES.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

“(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

“(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

“(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

“(g) SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

“(1) SECURITY.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall

establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

“(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Regulations issued under subsections (b) and (c) shall include provisions—

“(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

“(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

“(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

“(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

“(3) CONSULTATION AND IMPLEMENTATION.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

“(h) DISCLOSURE OF INFORMATION.—

“(1) IN GENERAL.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

“(2) DISCLOSURES FOR PUBLIC HEALTH AND SAFETY; CONGRESS.—Nothing in this section may be construed as preventing the head of any Federal agency—

“(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

“(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

“(i) CIVIL PENALTY.—Any person who violates any provision of a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding \$250,000 in the case of an individual and \$500,000 in the case of any other person. The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of the Social Security Act. The Secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of the Social Security Act and such authority shall include all powers as contained in 5 U.S.C. App., section 6.”

“(j) DEFINITIONS.—For purposes of this section, the terms ‘biological agent’ and ‘toxin’ have the same meaning as in section 178 of title 18, United States Code.”

(2) REGULATIONS.—

(A) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) SUBMISSION OF REGISTRATION APPLICATIONS.—A person required to register for possession under the interim final rule promulgated under subparagraph (A), shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) CONFORMING AMENDMENT.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) EFFECTIVE DATE.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511 of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) SELECT AGENTS.—

(1) IN GENERAL.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

(b) SELECT AGENTS.—

(1) UNREGISTERED FOR POSSESSION.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) TRANSFER TO UNREGISTERED PERSON.—Whoever transfers a select agent to a person who the transferor has reasons to believe has not obtained a registration required by regulation issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.”

(2) DEFINITIONS.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

(d) DEFINITIONS.—As used in this section:

(1) The terms ‘biological agent’ and ‘toxin’ have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, cultured, collected, or otherwise extracted from its natural source.

(2) The term ‘for use as a weapon’ includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

(3) The term ‘select agent’ means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132),

or as subsequently revised under section 351A(a) of the Public Health Service Act.”.

(3) CONFORMING AMENDMENT.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking “under this section” and inserting “under this subsection”.

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

This division may be cited as the “Department of Defense Appropriations Act, 2002”.

**DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107-38**

The funds appropriated in Public Law 107-38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

**CHAPTER 1**

**DEPARTMENT OF AGRICULTURE**

**FOOD AND NUTRITION SERVICE**

**SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)”, \$39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38: Provided, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966, as amended, in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions caused by the recession, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

**RELATED AGENCY**

**COMMODITY FUTURES TRADING COMMISSION**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Commodity Futures Trading Commission”, \$10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**CHAPTER 2**

**DEPARTMENT OF JUSTICE**

**GENERAL ADMINISTRATION**

**PATRIOT ACT ACTIVITIES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, for “Patriot Act Activities”, \$25,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which \$2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107-56, and of which \$23,000,000 shall be for implementation of such enhancements as are deemed necessary: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107-77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

**ADMINISTRATIVE REVIEW AND APPEALS**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Administrative Review and Appeals”, \$3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**LEGAL ACTIVITIES**

**SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses, General Legal Activities”, \$6,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**SALARIES AND EXPENSES, UNITED STATES ATTORNEYS**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses, United States Attorneys”, \$74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses, United States Marshals Service”, \$11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**FEDERAL BUREAU OF INVESTIGATION**

**SALARIES AND EXPENSES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses”, \$538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, of which \$10,283,000 is for the refurbishing of the Engineering and Research Facility and \$14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

**IMMIGRATION AND NATURALIZATION SERVICE**

**SALARIES AND EXPENSES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for “Salaries and Expenses”, \$399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**OFFICE OF JUSTICE PROGRAMS**

**STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, \$236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which \$81,700,000 shall be for Northern Virginia, of which \$81,700,000 shall be for New Jersey, and of which \$56,500,000 shall be for Maryland, to remain available until expended, and to be obligated from amounts made available in Public Law 107-38.

**CRIME VICTIMS FUND**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, for “Crime Victims Fund”, \$68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**DEPARTMENT OF COMMERCE**

**INTERNATIONAL TRADE ADMINISTRATION**

**OPERATIONS AND ADMINISTRATION**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Operations and Administration”, \$1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**EXPORT ADMINISTRATION**

**OPERATIONS AND ADMINISTRATION**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Operations and Administration”, \$1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**ECONOMIC DEVELOPMENT ADMINISTRATION**

**SALARIES AND EXPENSES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses”, \$335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

**PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION**

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, \$8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SALARIES AND EXPENSES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses”, \$3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

**SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Scientific and Technical Research and Services”, \$400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**CONSTRUCTION OF RESEARCH FACILITIES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Construction of Research Facilities”, \$1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**OPERATIONS, RESEARCH AND FACILITIES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Operations, Research and Facilities”, \$2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**DEPARTMENTAL MANAGEMENT**

**SALARIES AND EXPENSES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Salaries and Expenses”, \$881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## THE JUDICIARY

## SUPREME COURT OF THE UNITED STATES

## CARE OF THE BUILDINGS AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Care of the Buildings and Grounds", \$30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107-38.

## COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Court Security", \$57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, for security of the Federal judiciary, of which not less than \$4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: Provided, That the funds may be expended directly or transferred to the United States Marshals Service.

## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107-38.

## RELATED AGENCIES

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## SECURITIES AND EXCHANGE COMMISSION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## SMALL BUSINESS ADMINISTRATION

## BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Business Loans Program Account", \$75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for "Disaster Loans Program Account", \$75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas de-

clared as a result of the September 11, 2001, terrorist attacks—

(i) the term "small business concern" shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 202. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to \$10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 203. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

## CHAPTER 3

DEPARTMENT OF DEFENSE  
OPERATION AND MAINTENANCE  
DEFENSE EMERGENCY RESPONSE FUND

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Defense Emergency Response Fund", \$6,558,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38: Provided, That

\$20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): Provided further, That \$500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: Provided further, That—

(1) \$35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F-16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) \$20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

## PROCUREMENT

## OTHER PROCUREMENT, AIR FORCE

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for "Other Procurement, Air Force", \$210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

## GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the "Defense Emergency Response Fund" shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38): Provided, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: Provided further, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: Provided further, That the Secretary of Defense may transfer funds from the Fund to the appropriation, "Support for International Sporting Competitions, Defense", to be merged with, and available for the same time period and for the same purposes as that appropriation: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: Provided further, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the "Support for International Sporting Competitions, Defense", may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term "active duty", in section 5802 of Public Law 104-208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

## CHAPTER 4

DISTRICT OF COLUMBIA  
FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PROTECTIVE CLOTHING AND BREATHING APPARATUS

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, \$7,144,000, of which \$922,000 is for the Fire and Emergency

Medical Services Department, \$4,269,000 is for the Metropolitan Police Department, \$1,500,000 is for the Department of Health, and \$453,000 is for the Department of Public Works.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SPECIALIZED HAZARDOUS MATERIALS EQUIPMENT**

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, \$1,032,000, for the Fire and Emergency Medical Services Department.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CHEMICAL AND BIOLOGICAL WEAPONS PREPAREDNESS**

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, \$10,355,000, of which \$205,000 is for the Fire and Emergency Medical Services Department, \$258,000 is for the Metropolitan Police Department, and \$9,892,000 is for the Department of Health.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PHARMACEUTICALS FOR RESPONDERS**

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, \$2,100,000, for the Department of Health.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR RESPONSE AND COMMUNICATIONS CAPABILITY**

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, \$14,960,000, of which \$7,755,000 is for the Fire and Emergency Medical Services Department, \$5,855,000 is for the Metropolitan Police Department, \$113,000 is for the Department of Public Works Division of Transportation, \$58,000 is for the Office of Property Management, \$60,000 is for the Department of Public Works, \$750,000 is for the Department of Health, \$309,000 is for the Department of Human Services, and \$60,000 is for the Department of Parks and Recreation.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SEARCH, RESCUE AND OTHER EMERGENCY EQUIPMENT AND SUPPORT**

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, \$8,850,000, of which \$5,442,000 is for the Metropolitan Police Department, \$208,000 is for the Fire and Emergency Medical Services Department, \$398,500 is for the Department of Consumer and Regulatory Affairs, \$1,178,500 is for the Department of Public Works, \$542,000 is for the Department of Human Services, and \$1,081,000 is for the Department of Mental Health.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EQUIPMENT, SUPPLIES AND VEHICLES FOR THE OFFICE OF THE CHIEF MEDICAL EXAMINER**

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, \$1,780,000.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR HOSPITAL CONTAINMENT FACILITIES FOR THE DEPARTMENT OF HEALTH**

For a Federal payment to the District of Columbia, to be obligated from amounts made

available in Public Law 107-38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, \$8,000,000.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER**

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, \$43,994,000, for a first response land-line and wireless interoperability project, of which \$1,000,000 shall be used to initiate a comprehensive review, by a non-vendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EMERGENCY TRAFFIC MANAGEMENT**

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, for emergency traffic management, \$20,700,000, for the Department of Public Works Division of Transportation, of which \$14,000,000 is to upgrade traffic light controllers, \$4,700,000 is to establish a video traffic monitoring system, and \$2,000,000 is to disseminate traffic information.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR TRAINING AND PLANNING**

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, for training and planning, \$11,449,000, of which \$4,400,000 is for the Fire and Emergency Medical Services Department, \$990,000 is for the Metropolitan Police Department, \$1,200,000 is for the Department of Health, \$200,000 is for the Office of the Chief Medical Examiner, \$1,500,000 is for the Emergency Management Agency, \$500,000 is for the Office of Property Management, \$500,000 is for the Department of Mental Health, \$469,000 is for the Department of Consumer and Regulatory Affairs, \$240,000 is for the Department of Public Works, \$600,000 is for the Department of Human Services, \$100,000 is for the Department of Parks and Recreation, \$750,000 is for the Division of Transportation.

**FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED SECURITY**

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, for increased facility security, \$25,536,000, of which \$3,900,000 is for the Emergency Management Agency, \$14,575,000 for the public schools, and \$7,061,000 for the Office of Property Management.

**FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of \$39,100,000, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, of which \$5,000,000 shall be used for protective clothing and breathing apparatus, \$17,200,000 shall be for completion of the fiber optic network

project and an automatic vehicle locator system, and \$16,900,000 shall be for increased employee and facility security.

**FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS**

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, \$5,000,000, to be obligated from amounts made available in Public Law 107-38 and to remain available until September 30, 2003, of which \$1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, \$500,000 shall be used to develop a critical infrastructure threat assessment model, \$500,000 shall be used to develop and implement a regional communications plan, and \$2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

**GENERAL PROVISIONS, THIS CHAPTER**

**SEC. 401.** Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: Provided, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

**SEC. 402.** The Chief Financial Officer of the District of Columbia and the Chief Financial Officer of the Washington Metropolitan Area Transit Authority shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

**CHAPTER 5**

**DEPARTMENT OF DEFENSE—CIVIL**

**DEPARTMENT OF THE ARMY**

**CORPS OF ENGINEERS—CIVIL**

**OPERATION AND MAINTENANCE, GENERAL**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation and Maintenance, General", \$139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**DEPARTMENT OF THE INTERIOR**

**BUREAU OF RECLAMATION**

**WATER AND RELATED RESOURCES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Water and Related Resources", \$30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**DEPARTMENT OF ENERGY**

**ATOMIC ENERGY DEFENSE ACTIVITIES**

**NATIONAL NUCLEAR SECURITY ADMINISTRATION**

**WEAPONS ACTIVITIES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", \$106,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

**OTHER DEFENSE RELATED ACTIVITIES**

**OTHER DEFENSE ACTIVITIES**

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for "Other Defense Activities", \$3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

DEFENSE ENVIRONMENTAL RESTORATION AND  
WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Environmental Restoration and Waste Management", \$8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## CHAPTER 6

## DEPARTMENT OF THE INTERIOR

## NATIONAL PARK SERVICE

## OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation of the National Park System", \$10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "United States Park Police", \$25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", \$21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## DEPARTMENTAL OFFICES

## DEPARTMENTAL MANAGEMENT

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38, for the working capital fund of the Department of the Interior.

## RELATED AGENCIES

## SMITHSONIAN INSTITUTION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL GALLERY OF ART

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING  
ARTS

## OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Maintenance", \$4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL CAPITAL PLANNING COMMISSION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## CHAPTER 7

## DEPARTMENT OF LABOR

## EMPLOYMENT AND TRAINING ADMINISTRATION

## TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "National Institute of Environmental

States for "Training and employment services", \$32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND  
EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "State Unemployment Insurance and Employment Service Operations", \$4,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Workers Compensation Programs", \$175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That, of such amount, \$125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: Provided further, That, of such amount, \$25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: Provided further, That, of such amount, \$25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

PENSION AND WELFARE BENEFITS  
ADMINISTRATION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

OCCUPATIONAL SAFETY AND HEALTH  
ADMINISTRATION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## DEPARTMENTAL MANAGEMENT

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

DEPARTMENT OF HEALTH AND HUMAN  
SERVICESCENTERS FOR DISEASE CONTROL AND  
PREVENTION

## DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Disease control, research, and training" for baseline safety screening for the emergency services personnel and rescue and recovery personnel, \$12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH  
SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "National Institute of Environmental

Health Sciences" for carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, \$10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY  
FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for "Public Health and Social Services Emergency Fund", \$140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

## DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY  
EDUCATION

## SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "School Improvement Programs", for the Project School Emergency Response to Violence program, \$10,000,000, to be obligated from amounts made available in Public Law 107-38.

## RELATED AGENCIES

## SOCIAL SECURITY ADMINISTRATION

## LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Limitation on Administrative Expenses", \$7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL LABOR RELATIONS BOARD

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## CHAPTER 8

## LEGISLATIVE BRANCH

## JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND  
(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, \$256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That \$34,500,000 shall be transferred to the "SENATE", "Sergeant at Arms and Doorkeeper of the Senate" and shall be obligated with the prior approval of the Senate Committee on Appropriations: Provided further, That \$40,712,000 shall be transferred to "HOUSE OF REPRESENTATIVES", "Salaries and Expenses" and shall be obligated with the prior approval of the House Committee on Appropriations: Provided further, That the remaining balance of \$180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: Provided further, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107-38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under

Public Law 107-38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

#### SENATE

##### ADMINISTRATIVE PROVISIONS

**SEC. 801. (a) ACQUISITION OF BUILDINGS AND FACILITIES.**—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

**(b) AGREEMENTS.**—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

##### (c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

**(1) ARCHITECT OF THE CAPITOL.**—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

**(2) CAPITOL POLICE.**—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking “The Capitol Police” and inserting “(a) The Capitol Police”; and

(B) by adding at the end the following new subsection:

“(b) For purposes of this section, ‘the United States Capitol Buildings and Grounds’ shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.”.

**(d) TRANSFER OF CERTAIN FUNDS.**—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

**(e) EFFECTIVE DATE.**—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

**SEC. 802. (a) Notwithstanding any other provision of law—**

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action nec-

essary to carry out the terms of the memorandum of understanding.

**(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.**

**(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.**

#### OTHER LEGISLATIVE BRANCH

##### ADMINISTRATIVE PROVISIONS

**SEC. 803. (a) Section 1(c) of Public Law 96-152 (40 U.S.C. 206-1) is amended by striking “but not to exceed” and all that follows and inserting the following: “but not to exceed \$2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.”.**

**(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed \$1,000 less than the annual salary for the chief of the United States Capitol Police.**

**(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.**

**SEC. 804. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.**—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

**(b) TERMS OF ASSISTANCE.**—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a-2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

**(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—**

**(1) REPORTS.**—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

**(2) CONTENTS.**—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

**(3) SUMMARY OF REPORTS.**—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

**(d) EFFECTIVE DATE.**—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

**SEC. 805. (a) The Chief of the Capitol Police may, upon any emergency as determined by the**

**Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.**

**(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.**

**(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.**

**SEC. 806. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a-2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.**

**(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.**

**(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.**

#### CHAPTER 9

##### MILITARY CONSTRUCTION

###### MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Military Construction, Defense-wide”, \$510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That of such amount, \$35,000,000 shall be available for transfer to “Military Construction, Army”.

###### MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Military Construction, Army”, \$20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Military Construction, Navy”, \$2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for “Military Construction, Air Force”, \$47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### GENERAL PROVISIONS, THIS CHAPTER

**SEC. 901. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.**—Amounts made available to the Department of Defense from funds appropriated in Public Law 107-38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

**(b) NOTICE TO CONGRESS.**—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

**(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section the term “appropriate

committees of Congress" has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 902. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of Defense may not utilize the authority in that section to undertake or authorize the undertaking of any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

#### CHAPTER 10

##### DEPARTMENT OF TRANSPORTATION

###### OFFICE OF THE SECRETARY

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", for the Office of Intelligence and Security, \$1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### PAYMENTS TO AIR CARRIERS

###### (AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, \$57,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### COAST GUARD

###### OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", \$273,350,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38.

###### FEDERAL AVIATION ADMINISTRATION

###### OPERATIONS

###### (AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations", \$300,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38.

###### FACILITIES AND EQUIPMENT

###### (AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Facilities and Equipment", \$108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### RESEARCH, ENGINEERING, AND DEVELOPMENT

###### (AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", \$12,000,000, to be derived from the Airport and Airway Trust Fund, to be obligated from amounts made available in Public Law 107-38.

###### FEDERAL HIGHWAY ADMINISTRATION

###### MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Miscellaneous Appropriations", including the operation and construction of ferries and ferry facilities, \$110,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### FEDERAL-AID HIGHWAYS

###### EMERGENCY RELIEF PROGRAM

###### (HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, for "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, \$75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### FEDERAL RAILROAD ADMINISTRATION

###### SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Safety and Operations", \$6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), \$100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107-38.

###### FEDERAL TRANSIT ADMINISTRATION

###### FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Formula Grants", \$23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Capital Investment Grants", \$100,000,000, to be obligated from amounts made available in Public Law 107-38: Provided, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: Provided further, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

###### RESEARCH AND SPECIAL PROGRAMS

###### ADMINISTRATION

###### RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Special Programs", \$6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### OFFICE OF INSPECTOR GENERAL

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for "Salaries and Expenses", \$2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### RELATED AGENCY

###### NATIONAL TRANSPORTATION SAFETY BOARD

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### CHAPTER 11

###### DEPARTMENT OF THE TREASURY

###### INSPECTOR GENERAL FOR TAX ADMINISTRATION

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

###### FINANCIAL CRIMES ENFORCEMENT NETWORK

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### FEDERAL LAW ENFORCEMENT TRAINING CENTER

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### FINANCIAL MANAGEMENT SERVICE

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### UNITED STATES CUSTOMS SERVICE

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38; of this amount, not less than \$21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

###### OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation, Maintenance and Procurement, Air and Marine Interdiction Programs", \$6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

###### INTERNAL REVENUE SERVICE

###### PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Processing, Assistance and Management", \$16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

###### TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Tax Law Enforcement", \$4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

###### INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Information Systems", \$15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107-38.

###### UNITED STATES SECRET SERVICE

###### SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## EXECUTIVE OFFICE OF THE PRESIDENT

## OFFICE OF ADMINISTRATION

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$29,193,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## INDEPENDENT AGENCIES

## GENERAL SERVICES ADMINISTRATION

## REAL PROPERTY ACTIVITIES

## FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Federal Buildings Fund", \$126,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL ARCHIVES AND RECORDS

## ADMINISTRATION

## OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", \$4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Repairs and Restoration", \$2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## CHAPTER 12

## DEPARTMENT OF VETERANS AFFAIRS

## CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction, Major Projects", \$2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## COMMUNITY PLANNING AND DEVELOPMENT

## COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Community development fund", \$2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38: Provided, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107-73: Provided further, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: Provided further, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: Provided further, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): Provided further, That, of the amount made available under this heading, no less than \$500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of \$500,000 per small business for economic losses.

## MANAGEMENT AND ADMINISTRATION

## OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of Inspector General", \$1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## INDEPENDENT AGENCIES

## ENVIRONMENTAL PROTECTION AGENCY

## SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Science and Technology", \$41,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Environmental Programs and Management", \$32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Hazardous Substance Superfund", \$18,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for "State and Tribal Assistance Grants", \$5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## DISASTER RELIEF

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for "Disaster Relief", \$5,822,722,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$30,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Human Space Flight", \$64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Science, Aeronautics and Technology", \$28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## NATIONAL SCIENCE FOUNDATION

## RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Related Activities", \$300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38.

## CHAPTER 13

## GENERAL PROVISIONS, THIS DIVISION

SEC. 1301. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107-38.

SEC. 1302. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the "Emergency Supplemental Act, 2002".

## DIVISION C—ADDITIONAL SUPPLEMENTAL APPROPRIATIONS

## TITLE I—HOMELAND DEFENSE

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

## OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", \$76,000,000.

## AGRICULTURAL RESEARCH SERVICE

## SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$60,000,000.

## BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", \$150,000,000, to remain available until September 30, 2003.

## COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

## RESEARCH AND EDUCATION

For an additional amount for "Research and Education", \$50,000,000.

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE

## SALARIES AND EXPENSES

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", \$90,000,000, of which \$50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

## BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", \$14,081,000, to remain available until September 30, 2003.

## FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", \$15,000,000.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## FOOD AND DRUG ADMINISTRATION

## SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$120,000,000.

## CHAPTER 2

## DEPARTMENT OF JUSTICE

## GENERAL ADMINISTRATION

## PATRIOT ACT ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Patriot Act Activities", \$75,000,000, to remain available until September 30, 2003, for implementation of such enhancements to the Federal Bureau of Investigation as are deemed necessary by the study required under chapter 2 of division B of this Act: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107-77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

## LEGAL ACTIVITIES

## SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, General Legal Activities", \$15,000,000, to remain available until September 30, 2003.

## SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the

United States, for "Salaries and Expenses, United States Marshals Service", \$5,875,000, to remain available until September 30, 2003.

In addition, for an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for courthouse security equipment, \$9,125,000, to remain available until September 30, 2003.

#### CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", \$35,000,000, to remain available until September 30, 2003.

#### FEDERAL BUREAU OF INVESTIGATION

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$200,000,000, to remain available until September 30, 2003.

#### IMMIGRATION AND NATURALIZATION SERVICE

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$35,100,000, to remain available until September 30, 2003.

#### CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", \$300,000,000, to remain available until September 30, 2003.

#### FEDERAL PRISON SYSTEM

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$20,000,000, to remain available until September 30, 2003.

#### OFFICE OF JUSTICE PROGRAMS

##### JUSTICE ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Justice Assistance", \$550,000,000, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs.

#### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, \$35,000,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, to remain available until September 30, 2003.

#### DEPARTMENT OF COMMERCE

##### NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

##### SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Scientific and Technical Research and Services", \$30,000,000, to remain available until September 30, 2003.

#### RELATED AGENCIES

##### DEPARTMENT OF TRANSPORTATION

##### MARITIME ADMINISTRATION

##### OPERATIONS AND TRAINING

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Training", \$11,000,000, for a port security program, to remain available until September 30, 2003.

#### MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for the cost of guaranteed loans,

as authorized by the Merchant Marine Act, 1936, \$12,000,000, to remain available until September 30, 2003: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

#### FEDERAL TRADE COMMISSION

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$20,000,000, to remain available until September 30, 2003.

#### CHAPTER 3

##### DEPARTMENT OF ENERGY

##### ATOMIC ENERGY DEFENSE ACTIVITIES

##### NATIONAL NUCLEAR SECURITY ADMINISTRATION

##### WEAPONS ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", \$179,000,000, to remain available until September 30, 2003.

##### DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development, for "Defense Nuclear Nonproliferation", \$286,000,000, to remain available until September 30, 2003.

#### INDEPENDENT AGENCY

##### NUCLEAR REGULATORY COMMISSION

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for "Salaries and Expenses", \$36,000,000, to remain available until September 30, 2003: Provided, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

#### CHAPTER 4

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### OFFICE OF THE SECRETARY

##### PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", \$3,325,000,000, to remain available until September 30, 2003. Of this amount, \$1,150,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; \$165,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; \$185,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; \$10,000,000 shall be for the establishment and operation of a national system to track biological pathogens; \$95,000,000 shall be for the Office of the Secretary and improving disaster response teams; \$125,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; \$96,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of biosafety laboratories and related infrastructure costs; \$4,000,000 shall be for training and education regarding effective workplace responses to bioterrorism; \$593,000,000 shall be for the National Pharmaceutical Stockpile; \$829,000,000 shall be for the purchase, deployment and related costs of the smallpox vaccine, and \$73,000,000 shall be for improving lab-

oratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

#### CHAPTER 5

##### DEPARTMENT OF TRANSPORTATION

##### COAST GUARD

##### OPERATING EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", \$12,000,000, to remain available until September 30, 2003.

#### FEDERAL AVIATION ADMINISTRATION

##### RESEARCH, ENGINEERING, AND DEVELOPMENT

##### (AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", \$38,000,000, to be derived from the Airport and Airway Trust Fund.

##### GRANTS-IN-AID FOR AIRPORTS

##### (AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for "Grants-in-aid for airports", to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, \$200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003.

#### CHAPTER 6

##### DEPARTMENT OF THE TREASURY

##### UNITED STATES CUSTOMS SERVICE

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$270,972,000, to remain available until September 30, 2003: of this amount, not less than \$120,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders, of which \$10,000,000 shall be available for hiring inspectors along the Southwest border; not less than \$15,000,000 shall be available for seaport security; and not less than \$135,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology, equipment and infrastructure improvements to combat terrorism at the land and sea border ports of entry.

#### EXECUTIVE OFFICE OF THE PRESIDENT

##### OFFICE OF ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", \$20,847,000, to remain available until September 30, 2003.

#### POSTAL SERVICE

##### PAYMENT TO THE POSTAL SERVICE FUND

For an additional payment to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, \$875,000,000, to remain available until September 30, 2003.

#### CHAPTER 7

##### INDEPENDENT AGENCIES

##### ENVIRONMENTAL PROTECTION AGENCY

##### ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the

United States and to support activities related to countering terrorism, for “Environmental Programs and Management”, \$6,000,000, to remain available until September 30, 2003.

**HAZARDOUS SUBSTANCE SUPERFUND**

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for “Hazardous Substance Superfund”, \$23,000,000, to remain available until September 30, 2003.

**FEDERAL EMERGENCY MANAGEMENT AGENCY  
EMERGENCY MANAGEMENT PLANNING AND  
ASSISTANCE**

**(INCLUDING TRANSFER OF FUNDS)**

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for “Emergency Management Planning and Assistance”, \$300,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): Provided, That up to 5 percent of this amount shall be transferred to “Salaries and expenses” for program administration.

**GENERAL PROVISION, THIS TITLE**

**SEC. 101. EMERGENCY DESIGNATION.** (a) All amounts appropriated in this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) None of the funds in this title shall be available for obligation unless all of the funds in this title are designated as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, in an official budget request transmitted by the President to the Congress.

**TITLE II—ASSISTANCE TO NEW YORK,  
VIRGINIA, AND PENNSYLVANIA  
INDEPENDENT AGENCY**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**DISASTER RELIEF**

For an additional amount for “Disaster Relief”, \$7,500,000,000, to remain available until expended for disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia and Pennsylvania on September 11, 2001: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Deficit Control Act of 1985, as amended: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

**GENERAL PROVISION, THIS DIVISION**

**SEC. 102. Notwithstanding section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amount of discretionary budget authority for any account for fiscal year 2003 and subsequent years included in any baseline budget projections made by the Office of Management and Budget or the Congressional Budget Office pursuant to that section shall not reflect any appropriation for fiscal year 2002 provided in this division.**

**DIVISION D—SPENDING LIMITS AND  
BUDGETARY ALLOCATIONS FOR FISCAL  
YEAR 2002**

**SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.**—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (A) and inserting the following:

“(A) for the discretionary category: \$681,441,000,000 in new budget authority and \$670,447,000,000 in outlays;”.

(b) **REVISED AGGREGATES AND ALLOCATIONS.**—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

**(c) REPEAL OF SECTION 203 OF BUDGET RESOLUTION FOR FISCAL YEAR 2002.**—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) **ADJUSTMENTS.**—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.2 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

**SEC. 102. PAY-AS-YOU-GO ADJUSTMENT.**—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

**DIVISION E—TECHNICAL CORRECTIONS**

**SEC. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002** (Public Law 107-76) is amended under the heading “Food and Drug Administration, Salaries and Expenses” by striking “\$13,207,000” and inserting “\$13,357,000”.

**SEC. 102. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002** (Public Law 107-77) is amended in the third proviso of the first undesignated paragraph under the heading “Diplomatic and Consular Programs” by striking “this heading” and inserting “the appropriations accounts within the Administration of Foreign Affairs”.

**SEC. 103. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002** (Public Law 107-77) is amended in the proviso under the heading “Commission on Ocean Policy” by striking “appointment” and inserting “the first meeting of the Commission”.

**SEC. 104. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002** (Public Law 107-77) is amended by striking “1:00CV03110(ESG)” and inserting “1:00CV03110(EGS)”.

**SEC. 105. JICARILLA, NEW MEXICO, MUNICIPAL WATER SYSTEM.** Public Law 107-66 is amended—

(1) under the heading of “Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General”—

(A) by striking “Provided further, That using \$2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico;”; and

(B) insert at the end before the period the following: “: Provided further, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer \$2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico”; and

(2) under the heading of “Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)”—

(A) insert at the end before the period the following: “: Provided further, That using \$2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico”.

**SEC. 106. (a) Public Law 107-68 is amended by adding at the end the following:**

“This Act may be cited as the ‘Legislative Branch Appropriations Act, 2002’.”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107-68.

**SEC. 107. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107-68) is amended—**

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking “subsection (i)(1)(A)” and inserting “subsection (h)(1)(A)”; and

(B) in subparagraph (B), by striking “subsection (i)(1)(B)” and inserting “subsection (h)(1)(B)”.

**SEC. 108. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107-68) is amended in the matter amending Public Law 106-173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: “Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.**

**“(h) EMPLOYMENT BENEFITS.—**

**“(1) IN GENERAL.**—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

**“(2) EMPLOYMENT BENEFITS FOR THE DIRECTOR.—**

**“(A) IN GENERAL.**—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission’s determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission’s determination, the Director’s service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.

**“(B) DETAILEE SERVING AS DIRECTOR.**—Subparagraph (A) shall not apply to a detailee who is serving as Director.

**“(3) EMPLOYMENT BENEFITS FOR ADDITIONAL PERSONNEL.**—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.”.

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107-68).

SEC. 109. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, \$29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: Provided, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, \$5,896,000 shall be for State commercial driver's license program improvements.

SEC. 110. Notwithstanding any other provision of law, of the amounts appropriated for in fiscal year 2002 for the Research and Special Programs Administration, \$3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004; and \$22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

SEC. 111. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting “and construct capital improvements to intermodal marine freight and passenger facilities and access thereto” before “in Anchorage”.

SEC. 112. Of the funds made available in H.R. 2299, the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, of funds made available for the Transportation and Community and System Preservation Program, \$300,000 shall be for the US-61 Woodville widening project in Mississippi and, of funds made available for the Interstate Maintenance program, \$5,000,000 shall be for the City of Renton/Port Quendall, WA project.

SEC. 113. Section 652(c)(1) of Public Law 107-67 is amended by striking “Section 414(c)” and inserting “Section 416(c)”.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### PUBLIC AND INDIAN HOUSING HOUSING CERTIFICATE FUND

SEC. 114. Of the amounts made available under both this heading and the heading “Salaries and Expenses” in title II of Public Law 107-73, not to exceed \$20,000,000 shall be for the recordination and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act

of 1997 (“section 514”), and for new obligations

for such technical assistance: Provided, That of the total amount provided under this heading, not less than \$2,000,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development: Provided further, That of the total amount provided under this heading, no more than \$10,000,000 shall be made available for new obligations for technical assistance under section 514: Provided further, That from amounts made available under this heading, the Inspector General of the Department of Housing and Urban Development (“HUD Inspector General”) shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: Provided further, That, to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development (“Secretary”) shall recapture any such funds: Provided further, That no funds appropriated under title II of Public Law 107-73 and subsequent appropriations acts for the Department of Housing and Urban Development shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: Provided further, That, notwithstanding any other provision of law, no funding for technical assistance under section 514 shall be available for carryover from any previous year: Provided further, That the Secretary shall implement the provisions under this heading in a manner that does not accelerate outlays.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, on Tuesday of this week the Appropriations Committee met to approve the Department of Defense appropriations bill for fiscal year 2002, by a vote of 29 to zero. I am pleased to present the recommendations to the Senate today, as division A of this bill, H.R. 3338.

I will focus my remarks on division A, the Defense portion of the bill. Later today, Chairman BYRD will describe the provisions of divisions B through E. I want to point out that I support the allocation of \$7.4 billion for Defense contained in division B. Prompt action on this measure will ensure that our efforts to fight terrorism are fully supported.

The House passed its version of this bill just last week, so you can see we have acted as expeditiously as possible to bring it to the Senate. I want to note to all my colleagues that this would not have been possible without the tremendous cooperation that I have received from Senator STEVENS and his able staff.

The Defense appropriations bill as recommended by the committee provides a total of \$317,623,483,000 in budget authority for mandatory and discretionary programs for the Department of Defense. This amount is \$1,923,633,000 below the President's request.

The recommended funding is below the President's request by nearly \$2 billion because the Senate has already acted to reallocated \$500 million for military construction and \$1.2 billion for nuclear energy programs under the

jurisdiction of the Energy and Water Subcommittee.

The total discretionary funding recommended in division A of this bill is \$317,208,000,000. This is the same amount as the subcommittee's 302B allocation, and the House level.

As such, my colleagues should be advised that any amendment that would seek to add funding to the recommendation would need to be accompanied by an acceptable offset in budget authority.

This measure is fully consistent with the objectives of this administration and the Defense authorization bill which passed the Senate in September and is now in conference. Our staffs have worked in close coordination with the Armed Services Committee to minimize differences between the bills.

In addition, we believe we have accommodated those issues identified by the Senate which would enhance our Nation's Defense while allowing us to stay within the limits of the budget resolution.

Our first priority in this bill is to provide for the quality of life of our men and women in uniform.

In that vein, we have fully funded a 5-percent pay raise for every military member and, as authorized, we recommend additional funding for targeted pay raises for those grades and particular skills which are hard to fill.

We believe these increases will significantly aid our ability to recruit, and perhaps more importantly, retain much needed military personnel.

We have also provided \$18.4 billion for health care costs. This is \$6.3 billion more than appropriated in FY 2001 and nearly \$500 million more than requested by the President.

This funding will ensure that TRICARE costs are fully covered, that our military hospitals receive increased funding to better provide for their patients and, by providing funding for “TRICARE for life”, we fulfill a commitment made to our retirees over 65. This will ensure that those Americans who were willing to dedicate their lives to the military will have quality health care in their older years.

This is most importantly an issue of fairness; it fulfills the guarantee DOD made to the military when they were on active duty.

We also believe it will signal to those willing to serve today that we will keep our promises. In no small part we see this as another recruiting and retention program.

In title II, the bill provides \$106.5 billion for readiness and related programs. This is \$9.6 billion more than appropriated for fiscal year 2001. The bill reallocates funding from the Secretary of Defense to the military services for the costs of overseas deployments in the Balkans in the same manner as the Pentagon does for the Middle East deployments.

Through this adjustment and because of other fact of life changes in the Balkans, the committee has identified \$600

million in savings to reapply to other critical readiness and investment priorities.

For our investment in weapons and other equipment, the recommendation includes \$60.9 billion for procurement, nearly \$500 million more than requested by the President. The funding here will continue our efforts to recapitalize our forces, supporting the Army's transformation goals and purchasing much needed aircraft, missiles, and space platforms for the Air Force.

For the Navy, the bill provides full funding for those programs that are on tract and ready to move forward. In some cases, delays in contracting have allowed the subcommittee to recommend reallocating funds for other critical requirements.

Included in that, the committee has recommended \$560 million for procurement to support our National Guard and Reserve forces.

In funding for future investment for research and development, the measure recommends \$46 billion, a 10-percent increase over the amounts appropriated for fiscal year 2001.

The recommendation mirrors the Senate-passed authorization bill for ballistic missile defense. A total of \$7 billion is provided under missile defense programs and an additional \$1.3 billion is provided in a separate appropriation for the President to allocate either for missile defense or for counterterrorism.

This is a balanced bill that supports the priorities of the administration and the Senate. In order to cut spending by nearly \$2 billion, some difficult decisions were required. The bill reduces funding for several programs that have been delayed or are being reconsidered because of the Secretary's Strategic Review, the Nuclear Posture Review, and the Quadrennial Defense Review.

The bill also makes adjustments that are in line with the reforms championed by the administration.

No. 1, a concerted effort was made at reducing reporting requirements in the bill.

No. 2, the bill also reduces funding for consultants and other related support personnel as authorized by the Senate.

No. 3, as requested, the bill provides \$100 million for DOD to make additional progress in modernizing its financial management systems.

Finally, the bill places a cap on legislative liaison personnel which the Secretary of Defense has indicated are excessive.

I would like to take a few minutes to address a couple of items that some press reports have mischaracterized about our recommendations.

First, the committee has reduced funding for the Cooperative Threat Reduction Program by \$46,000,000. Let me assure all of my colleagues that I strongly support the intent of this program.

The \$356 million that we include for the program will assist the former So-

viet Union countries to dismantle and safeguard their nuclear weapons. However, the Defense Department has had a history of being unable to use all of the funding that has been provided to it in a timely fashion.

As a result, at this time, the Pentagon has more than \$700 million that it hasn't used yet. That is nearly 2 years worth of funds. In addition, under current law, the authorizers have limited the use of funding for certain activities. Even if this language is changed in the pending Defense conference, the Pentagon has not yet presented a plan for how they will use these funds.

The committee has taken its action without prejudice. We are required to reduce funding in this bill by nearly \$2 billion. We simply must make this type of reduction where we know they can't efficiently obligate the funding no matter how much we support the overall objectives of the program.

Second, the bill provides discretionary authority to the Defense Department to lease tankers to replace the aging KC-135 fleet. This is a program that is strongly endorsed by the Air Force as the most cost effective way to replace our tankers.

Despite what has been reported, the language in the bill requires that the lease can only be entered into if the Air Force can show that it will be 10 percent less expensive to lease the aircraft than to purchase them. In addition, it stipulates that the aircraft must be returned to the manufacturer at the end of the lease period.

No business sector has suffered more from the events of September 11 than has our commercial aircraft manufacturers. The tragic events of that day have drastically reduced orders for commercial aircraft. We have been informed that Boeing, for example, will have to lay off approximately 30,000 people as a direct consequence of the terrorist attack.

We have provided funding to support the airlines as a result of that tragedy. We are including funds elsewhere in this bill to help in the recovery in New York and the Pentagon. The leasing authority which we have included in division A allows us to help assist commercial airline manufacturers while also solving a long-term problem for the Air Force.

I strongly endorse this initiative which was crafted by my good friend, Senator STEVENS, with the support of several other members, including Senators CANTWELL, MURRAY, and DURBIN. I believe it deserves the unanimous support of the Senate.

Today is December 6. Nearly one quarter of the fiscal year has passed.

The Defense Department is operating under a continuing resolution which significantly limits its ability to efficiently manage its funding—most particularly, procurement programs.

I don't need to remind any of my colleagues that we have men and women serving half way around the world defending us.

Less than 1 percent of Americans serve in today's military. These few are willing to sacrifice themselves for us. They are willing to stand in harm's way in our behalf. They deserve our support.

Nearly 3 months ago, our Nation was hit by a surprise attack delivered from out of blue. Forty years ago tomorrow we suffered a similar attack.

In 1941, our Nation rose up together and we worked diligently to defeat this threat. I have been gratified to see our Nation come together in the past few months in a similar fashion.

This is the bill, that allows us to act. This is the measure that we need to show our military forces that we support them.

I know there are disagreements among some of us with specific funding levels in the other divisions of this bill. But, we should not let us get bogged down in a partisan squabble over how we pay for the war on terrorism.

We have the Defense bill that is urgently needed to fight and win this war and to demonstrate to the world our resolve.

For the good of the Nation, I urge all my colleagues to look to our objective and to support this measure. Let us take the bill to conference where we can work out an agreement that can be endorsed by the President.

I urge all my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Madam President, I welcome the opportunity to join Senator INOUYE in presenting the fiscal year 2002 Defense Appropriations Act.

The chairman has just effectively described the bill before the Senate, and I will add only a few comments that I want to make to endorse the presentation that he has made.

This bill before the Senate is a good bill. Section A of the bill Senator INOUYE and I have worked on for some time. Later today it is my intention to offer an amendment in the nature of a substitute. It is amendment No. 2743, substitute for divisions B and C that concern the allocation of funds from the previous emergency supplemental appropriations bill that relate to the September 11 attacks on our Nation.

For the defense portion, there I am referring specifically to section A of the bill before the Senate. I am especially pleased we succeeded in funding the 5-percent pay raise and the \$9.5 billion increase in readiness funds in the O&M section of this bill.

Of special importance to me are three initiatives in the bill that will dramatically enhance our national security. First, the bill includes \$143 million to continue the multiyear procurement contract for the C-17 airlifter. Our current deployment relies heavily on the C-17 fleet, and this initiative will continue the procurement of that aircraft—now the backbone of our strategy for deployment. As I said, we continue to rely on the C-17 fleet for

our deployment policies of the Department of Defense, and we need as many of those as we can get.

Second, this bill fully accommodates the President's request of \$8.3 billion for missile defense programs, and it carries out the conditions set forth in the Defense authorization bill for the allocation of that money.

The successful test earlier this week of the ground-based midcourse interceptor reflects the great progress made in this missile defense program by LTG Ron Kadish and the people in his command. I congratulate them. We are now talking about the ground-based midcourse interceptor program which is a portion of the missile defense program. That is what is in the bill before the Senate.

Third, the bill includes a new provision that authorizes the Secretary of the Air Force to lease 100 new air refueling tankers. If executed by the Department—that is, if these leases are followed through by the Department—these leased aircraft would replace the 136 KC-135E aircraft which are currently in use as air refueling tankers. They average in excess of 41 years of age. I notice the chairman said 42. I am sure he has more updated information than I.

This initiative, as the chairman said, endorsed by the Secretary of the Air Force, has been cleared by CBO as having no budgetary impact in fiscal year 2002.

Earlier this week I answered a question of the press and other Members of the Senate about this provision and told them this bill did not, at that time, specify the aircraft to be procured. Because of the clearance procedure of the CBO, we have now put in the bill a designation that these aircraft to be leased will be the Boeing 767s because there is adequate information upon which we can base the conclusion and really advance the argument that there will be a commercial market for these aircraft at the end of the lease involved.

What I really want to tell the Senate is that this bill reflects countless hours of collaboration by myself and Chairman INOUYE and the members of the committee and our staff. Both my chief of staff, Steve Cortese, and the chief of staff for Senator INOUYE, Charlie Houy, have really put in weekends and hours that cannot even be counted to be sure that this bill before the Senate is what we intend it to be.

Our allocation in this bill was \$2 billion less than the President's amended request. The committee allocated additional funds for military construction and defense nuclear weapons programs. Those really are defense, in my judgment. I have supported and advocated the allocations to those programs. But I recognize the pressure everyone is working under to make certain we have an adequate allowance for defense.

I believe the priorities of Members of the Senate, as requested by them to

both Senator INOUYE and myself, are reflected in this bill in a balanced and fair fashion. I state to the Senate that if I were still chairman of the Subcommittee on Defense, there really are very few changes I would recommend to the Senate in the bill. I recommend none now because the differences are so minor that they really should not affect the consideration of the bill.

There is, however, a long day ahead of us. It is my hope we can strike a compromise. For that purpose, I will offer the substitute and explain it further after Senator BYRD has presented his statement concerning the Senate amendments as reflected by the bill that has been reported from the full Committee on Appropriations and is before the Senate now.

I do appreciate every consideration that has been extended to me and my staff by Chairman INOUYE and his staff director, Charlie Houy, and the chairman of the full committee and his staff.

I wish I could say I look forward to this debate. At present, I think we are heading toward being in the position of being between a rock and a hard place. I will try to search out a way to move one or the other or both.

Thank you very much.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, before I suggest the absence of a quorum, I would like to have the RECORD show how pleased the subcommittee is with the initiative offered by Senator STEVENS, the Presiding Officer, and Senator CANTWELL, on the KC-135 leasing program. It took much time and, I would say, much creativity, but I am happy that these great Senators were able to resolve this matter. We find now that a measure that should have been contentious is no longer contentious. I once again thank Senator STEVENS, Senator MURRAY, and Senator CANTWELL.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring of H.R. 3338, the Department of Defense Appropriations Act for Fiscal Year 2002.

H.R. 3338 provides \$317.206 billion in nonemergency discretionary budget authority for defense activities and \$13 million in nonemergency budget authority for general purpose activities. Those amounts will result in new outlays in 2002 of \$213.063 billion. When outlays from prior-year budget authority are taken into account, non-emergency discretionary outlays for

the Senate bill total \$309.412 billion in 2002.

In addition, the bill includes \$35 billion in emergency-designated budget authority. Of that total, \$20 billion represents amounts previously authorized by and designated as emergency spending under Public Law 107-38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Attacks on the United States, and \$15 billion is for homeland defense. That budget authority will result in new outlays in 2002 of \$12.123 billion. In accordance with standard budget practice, the budget committee will adjust the appropriations committee's allocation for emergency spending at the end of conference. Because the funds for homeland security include amounts for nondefense activities, the emergency designation violates section 205 of the budget resolution for fiscal year 2001 (H. Rept. 106-577).

The Senate bill also violates section 302(f) of the Congressional Budget Act of 1974 because it exceeds the subcommittee's Section 302(b) allocation for both budget authority and outlays. Similarly, because the committee's allocation is tied to the current law cap on discretionary spending, H.R. 3338 also violates section 312(b) of the Congressional Budget Act. The bill includes language that raises the cap on discretionary category spending to \$681.441 billion in budget authority and \$670.447 billion in outlays. However, because that language is not yet law, the budget committee cannot increase the appropriations committee's allocation at this time, putting it in violation of the two points of order.

In addition, by including language that increases the cap on discretionary spending and adjusts the balances on the pay-as-you-go scorecard for 2001 and 2002 to zero, H.R. 3338 also violates section 306 of the Congressional Budget Act. Finally, the bill violates section 311(a)(2)(A) of the Congressional Budget Act by exceeding the spending aggregates assumed in the 2002 budget resolution for fiscal year 2002.

H.R. 3338 violates several budget act points of order; however, it is a good bill that addresses the nation's defense needs, including the defense of our homeland. The President and Congressional leaders from both parties agreed in the wake of the September 11th attack that more money was needed to respond to the terrorists and to protect our homeland. This bill follows that bipartisan agreement and includes language that raises the cap on discretionary spending to the necessary level. I commend Chairman BYRD and subcommittee Chairman INOUYE on their excellent work in bringing this important bill to the Senate floor.

I ask unanimous consent that a table displaying the budget committee scoring of H.R. 3338 be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	General purpose	Defense	Mandatory	Total
<b>Senate-reported bill:</b>				
Budget Authority	13	317,206	282	317,501
Outlays	13	309,399	282	309,694
<b>Senate 302(b) allocation:<sup>1</sup></b>				
Budget Authority	181,953	282	182,235	
Outlays	181,616	282	181,898	
<b>House-passed bill:</b>				
Budget Authority	317,207	282	317,489	
Outlays	308,873	282	309,155	
<b>President's request:</b>				
Budget Authority	319,130	282	319,412	
Outlays	310,942	282	311,224	
<b>SENATE-REPORTED BILL COMPARED TO:</b>				
Senate 302(b) allocation: <sup>1</sup>	13	135,253	.....	135,266
Budget Authority	13	127,783	.....	127,796
<b>House-passed bill:</b>				
Budget Authority	13	—1	.....	12
Outlays	13	526	.....	539
<b>President's request:</b>				
Budget Authority	13	—1,924	.....	—1,911
Outlays	13	—1,543	.....	—1,530

<sup>1</sup> For enforcement purposes, the budget committee compares the Senate-reported bill to the Senate 302(b) allocation. The subcommittee's allocation reflects the current law cap on discretionary category spending. The Senate-reported bill includes language increasing that cap to \$681,441 billion (consistent with the agreement reached between President Bush and Congressional leaders). Because the increase in the cap is not yet law, the committee cannot revise the committee's 302(a) allocation at this time.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. In addition to the amounts shown above, the Senate bill also includes \$20 billion in budget authority and \$8.25 billion in outlays to respond to the September 11th attack and \$15 billion in budget authority and \$3,873 billion for homeland security. Such amounts are designated as emergency. The budget committee increases the committee's 302(a) allocation for emergencies when a bill is reported out of conference.

Prepared by SBC Majority Staff, 12-6-01.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, friends, Senators, Americans, lend me your ears. It was just 56 days ago on a day like this day, as clear as the noon day Sun and a cloudless sky, that tragedy struck.

Until September 10 we thought of national defense in terms of the soldiers, sailors, airmen and marines that make up our military. We sought to provide them with the best training and equipment that money could buy, and when duty calls, we expect them to leave behind their families and loved ones to go into harm's way to protect our country and our citizens from aggression.

Our concept of national defense has now been radically altered as a result of the September 11 terrorist attacks. It is not just our military personnel in Afghanistan who are on the front lines, but all Americans here at home are on the front lines. This zone of conflict extends to where we live, where we work, and where we play. Judging by the horrendous loss of life in New York, our own cities are the battlefield of the 21st century.

The President has said that "we are fighting a two-front war . . . our enemy is fighting an army, not only overseas, but at home." Our domestic army against terrorism is made up of those who work to enforce our laws, those who work to secure our borders, those who manage the Public Health Service, and those who provide for the security of our Nation's airports and nuclear facilities. Just as we provide for the finest and most capable military, we must provide for the defense of our homeland because, as I say, here, too, is the front line.

On September 14, the Congress passed a \$40 billion emergency supplemental appropriations bill in response to the September 11 attacks on the World Trade Center and the Pentagon. There was absolute bipartisanship. There was no aisle between the parties then.

At the time, we thought we could split those funds between our military needs abroad and those needed to rebuild New York City and the Pentagon. However, since September 14, we have seen a biological attack unleashed on the east coast in the form of anthrax. The specter of small pox has reemerged for the first time in almost 30 years.

The distinguished senior Senator from Alaska and I can remember very well those schooldays when we were vaccinated for smallpox at school. I remember the little two-room schoolhouse there in that ancient coal mining camp of Algonquin in Mercer County, southern West Virginia, in the heart of the coal fields. There it was that I received the needle.

We have seen National Guard troops patrolling the Golden Gate Bridge. We have had threats made against our nuclear facilities. We have gained new information that Osama bin Laden loyalists have progressed further than originally thought in producing chemical and nuclear weapons, and those stories, those headlines appeared in the Washington press. The Administration has issued three vague warnings to the American people urging them to be on a heightened state of alert.

We have learned so much more about our potential vulnerabilities here at home since September 14. We now know that these vulnerabilities must be addressed, and that additional security precautions must be taken.

Of the \$40 billion emergency appropriations bill passed on September 14, the President has committed \$21 billion to our military and intelligence primarily for needs abroad. That leaves \$19 billion for the President to fulfill his promise to provide \$20 billion to rebuild New York City and the Pentagon and other areas which were the subject of the terrorist attacks. And the other area is homeland defense, of which he, himself, has identified \$6 billion in needs. Clearly, within the confines of that \$40 billion package, we cannot do it all.

The reality is that budget deficits are on the horizon as far as the human eye and as far as our computers can see, and certainly as far as the end of the President's second term, if he should choose to run, if the electorate should choose to elect him, and if the Good Lord chooses to let him live.

Under the guise of budgetary discipline, the administration has chosen an arbitrary number—Independent of whether or not that amount can provide for our homeland defense needs—and the administration has decided to oppose or to postpone until next year any spending above that line regardless of the need or purpose.

Osama bin Laden does not care one whit, not one snap of the finger, about

our budget agreements. His loyalists are not concerned about whether we have a supplemental appropriations bill in the spring. They are plotting attacks right now, this very minute. Twenty-four hours a day they plot. They plot when you are sleeping. They plot when I am sleeping. They will not wait until next year, and if we do not make these small investments now to address our potential vulnerabilities, then we risk substantially larger losses in the future—not just financial and human casualties but also the loss of the American people's confidence in their Government, the American people's confidence in their President, the American people's confidence in their Congress.

We cannot shortchange our homeland defense. We cannot postpone these investments. Our citizens have a right to know that the police, the fire and the hospital personnel in their communities have the equipment, training, and medicine to respond to a terrorist attack.

I have, with the help of my staff and with the help of the witnesses who have appeared before the appropriations subcommittees, crafted a package that addresses our most immediate vulnerabilities at home. This package provides the President's full request for our military operations abroad. We do not cut one penny from defense, defense as understood in the usual sense. We do not cut one penny from the President's promise and our commitment to New York City. Not one penny do we cut. And we provide for homeland defense. That is as much defense as is the defense of our military people who are overseas.

Americans have spilled blood in Afghanistan. Americans have spilled blood in Lower Manhattan, and within our own sight out of the windows Americans have spilled blood at the Pentagon. Is there any difference in the spilling of American blood whether it is overseas or at home, when the cause of that spilling of American blood and that blood itself is on the hands of terrorists?

The major elements of my homeland defense package include bioterrorism prevention and response, which includes food safety.

Our current public health system is ill-funded, fragmented, and unprepared to respond adequately to the threats posed by bioterrorism. The anthrax-laced letters sent through the mail afforded us just a glimpse of the terror, the fear, the concern, the apprehension, that could result from a more serious biological attack involving smallpox or Ebola.

We know that rogue nations like Iraq, Iran, and North Korea are developing biological and chemical weapons. We know that bin Laden loyalists have conducted research on chemical and biological weapons at 40 sites in Afghanistan.

The Administration has proposed \$1.6 billion for bioterrorism prevention, just barely enough to increase our supply of smallpox vaccine and other necessary pharmaceuticals alone. To fit into the President's budget request, the Health and Human Services Department even cut back on its repeatedly stated goal of purchasing 300 million small pox vaccine doses, choosing to rely instead on diluted versions of older vaccine doses left over from the 1970s.

The Administration's chief public health expert, the director of the Center for Disease Control and Prevention, Dr. Jeffrey Koplan, indicated that the Administration's proposal is "too little, too late."

Moreover, Dr. Koplan estimates that it will take at least \$1 billion to bring state and local public health agencies up to speed to be able to recognize and respond to an incident of bioterrorism. Yet, the Administration has proposed a paltry \$115 million to increase State and local health capacity. Our proposal includes over \$1.3 billion for expanding State and local health capacity, twelve times the President's request.

State and local health departments are considered the weakest link in the Nation's defense against bioterrorism, and experts say they must take a range of steps to improve readiness, including increasing their laboratory capacity and hiring more epidemiologists to track disease.

The Secretary of HHS, Tommy Thompson, when he appeared before our appropriations subcommittee to speak about protecting the American people from an outbreak of smallpox, said every State should have at least one epidemiologist. Experts say they must take a range of steps to improve readiness, increasing their laboratory capacity and hiring more epidemiologists to track disease. Who will be the first to respond to a biological attack, the State and local health officials down in Beckley, WV, the local law enforcement officers at Sophia, population 1,182?

These are the people who will be first. The Feds may come within 6 hours, 8 hours, or 10 hours, but those who will respond first are those law enforcement and health officials, fire department people who are there on the spot. They will be the first to die, and they will be the first to act to prevent others from dying.

Fewer than half of these health departments have access to the modern fax machines capable of expeditiously alerting hospitals of a bioterror threat. Our local health care providers are more likely to receive critical health advisories from CNN than they are from other health care officials.

My homeland security package would provide an additional \$3.9 billion to not only expand the development of the Federal pharmaceutical stockpile and our supply of the smallpox vaccine, but also to expand state and local health care capacity. In contrast to the ad-

ministration's funding proposal, this package prioritizes funding to "first responders" at the state and local level. The bulk of the funding is directed toward improving our public health departments, beefing up local lab capacity, and expanding the Health Alert Network.

Also, included in my homeland security package is \$575 million that would be directed to the Food and Drug Administration, and the Department of Agriculture, to help prevent and respond to the malicious introduction of a highly contagious disease into our food supply. Aside from the obvious health threat, agro-terrorism would severely disrupt the economy and public confidence in the food supply.

We have to be conscious of the possibility that terrorists will act against our crops, against the Nation's livestock and threaten the lives of people through the food they eat.

We need only look to the recent outbreak of mad cow disease in Japan to see the chaos and economic devastation that would follow an agro-terrorist attack. I doubt many Americans would find comfort in the fact that the FDA only has the resources to inspect 0.7 percent of all imported food. Not 1 percent, only 0.7 of 1 percent. The FDA only has the resources to inspect 0.7 percent of all imported food.

When it comes to the health and safety of the American people, we cannot afford to cut corners. We cannot afford to gamble. We cannot afford to tempt fate. We must not deal with bioterrorism on the cheap.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. SARBANES. I add the observation, we cannot afford to wait, either. Every one of the items—and I commend the Senator for his extraordinary leadership and initiative in this regard—every one of the items covered by his homeland defense program are matters we should address now, today, this week, this month.

They cry out for a commitment of resources to address airport security, port security, border security, the postal system, the assistance to State and local antiterrorism law enforcement, the firefighters, bioterrorism prevention, and protecting the nuclear powerplants. And in every one of these items, there is not a one of them we can look at and say, let's leave that; we will do that later; there is not a pressing need.

There is a pressing need now for every one of these items. I commend the Senator for moving forward with this initiative. Governor Ridge himself has said he will come in next year and ask for significant resources. But he needs them now. My perception is that Governor Ridge is being undercut in his effort to deal with homeland security by the fact that he is not picking up the additional resources he needs in order to go out into these communities—State and local governments,

the health community, the security community—and say, we are in a position now to help move your program, and move it ahead. Much of this requires a response from others. If we don't provide the resources here with which to do it, when is it going to happen? We are going to delay it, 60, 90, 120 days? Who knows how long.

This is an opportunity, as the Senator has seen, to move now to address these pressing concerns. If we want to move the economy back up, a way to do it is to provide to the American people a sense of security and functioning within their own homeland, which the Senator has done, and about which he has spoken quite eloquently.

I register my very strong support for this initiative and thank the Senator for, once again, moving forward to provide very important leadership in this critical matter facing our Nation.

Mr. BYRD. Mr. President, the Scriptures say that a word fitly spoken is like apples of gold and pictures of silver. The words of the distinguished Senator from Maryland are fitly spoken.

The time is now. The danger is here. It is now.

Now, several subcommittees under the Appropriations Committee have had hearings, and I have been able to attend some of those hearings. We have heard eloquent witnesses appear before those subcommittees and testify to the need of appropriations now, aside from the fact that it is at the State and local levels where the need exists now.

I saw in the paper, I believe in the last week, a headline that the State of Virginia was suffering a \$1 billion shortfall in State revenue. The State of Virginia is not alone in that respect. Most States in this country are suffering shortfalls in their budgets. They need help. They need money now. We cannot wait, as the distinguished Senator from Maryland has said.

In putting this package together, we have tried to consider those items which are purely for homeland defense.

On the question of the need of States and cities for Federal aid, 39 States—get this, 39 States—today, right now, nearly 4 out of 5 States, are in a recession or near a recession. Since March, the number of States in recession has nearly doubled to 20 States from 11 States with the terrorist attacks of September 11 helping to push some over the brink.

I will refer to this statement of facts again later.

I thank the distinguished Senator from Maryland. He is right on point.

My homeland security package also contains \$1 billion for Federal, State, and local law enforcement. The attacks of September 11 dramatically, and tragically demonstrated that our country's law enforcement agencies need greater support to counter the terrorist violence that has reached our shores.

They need this support and, as we have already indicated, the States cannot provide it. The money is not there.

They are already running into deficit, so they are looking to the Federal Government to help.

Of the \$1 billion included in this package, \$225 million would be used to improve communication and coordination between the FBI and the 43 Federal agencies involved in counterterrorism activities here at home.

Former drug czar Barry McCaffrey testified before the Senate Governmental Affairs Committee in October that the FBI's computers are woefully inadequate—those were his words, the FBI's computers are “woefully inadequate”—and that the computers in the homes of most Americans are more advanced than those used by FBI agents in the field. Think of that.

He also stated that a current FBI's computer upgrades effort is hampered by budgetary constraints. This \$225 million that is included in this red section of the pie chart would jump-start those upgrades and move the Bureau's technology into the 21st century.

I see the distinguished Senator from New York, Mr. SCHUMER, on the floor. He is listening raptly. He has indicated that he wishes to make a point. I yield for that purpose.

Mr. SCHUMER. I thank the Senator, our leader from West Virginia, for the package he has put together. As somebody who chairs a subcommittee that oversees the FBI, I would like to say to the Senator from West Virginia that when the FBI came and testified before us, and the Senator from West Virginia asked them what their No. 1 hinderance was in fighting the war on terrorism, they said it was lack of resources. Their computers—I would just like to ask the Senator if he is familiar with this—in one part of the FBI cannot talk to the computers in the other part of the FBI, let alone talk to the computers of the CIA, the NSA, the INS, the ATF, and all of the other agencies.

I would like, before asking the question, to compliment the Senator. This is desperately needed. We are at war on our homefront as much as we are at war in Afghanistan. I think it was Vice President CHENEY who said we will lose more people on the homefront than on the battlefield. So I cannot see why we would not do this when our own people throughout America are at risk.

But I would like to ask the Senator if he has heard of this almost primitive computer structure at the FBI—that the computers are not able to talk to one another within the agency, let alone to others? And would the package deal with that problem in every way that the FBI might need?

Mr. BYRD. There is \$225 million in this package to jump-start the effort to upgrade those computers. They are the instruments of communication between and among the FBI and the other agencies. It is a dire need, and it should be met now, not next spring.

Mr. SCHUMER. Will the Senator yield for another question?

Mr. BYRD. Yes.

Mr. SCHUMER. If we waited until next spring, could it be that the potential of our FBI to catch the terrorists or prevent the next—God forbid—terrorist incident from occurring in America would be greatly downgraded and it would increase the chances that again, God forbid—some other incident might occur?

Mr. BYRD. The Senator is correct. Why wait? Why toy with “wait”? Why gamble? Why not act now?

The Senator knows we have wrapped a ribbon around this homeland defense package which says, in essence: Mr. President, you may use this or you may not use it. So we have an emergency designation. It is an emergency, Mr. President, and you have the key. You have the key. So it is your call, but here are the tools. If you need them, you won't have to wait until next spring.

The thing about waiting until next spring is we are really waiting until next summer or next autumn because the supplemental request doesn't come up on one day and end up being signed by the President on the next day; there have to be hearings and so on.

We have had the hearings now that indicated a dire need for these emergency items. So we are putting this ribbon, this blue ribbon that says emergency, E-M-E-R-G-E-N-C-Y, on it. Why? Of what are we afraid? Why don't we want the President to have this so he can carry out his commitment to protect the American people from the attacks of terrorism? He made that promise.

Mr. SCHUMER. I thank the Senator.

Mr. BYRD. I thank the Senator.

I also included \$150 million in this package for cyber security. It is alarming to know that the next terrorist attack could cripple our Nation's economy simply by a few strokes of the keyboard. Cyber-attacks have cost our economy \$12 billion this year alone. Just imagine the frightening consequences if a cyber-terrorist were to take control of one of our financial institutions, or to take control of one of our power grids, or to take control of our air traffic control system. That can happen.

Of the \$1 billion included for antiterrorism law enforcement, one-half, or \$500 million, would be directed to State and local law enforcement agencies. This is where the rubber meets the road in law enforcement.

State and local police departments are stretched thin enough, due to the need for an increased security presence throughout our cities and States. Twelve-hour days and overtime pay for State and local law enforcement personnel have become the norm since September 11. Right here in this city, in the capital city here around this Capitol Building, this building which is the most splendid edifice in the world, this has happened. It is taking place here: 12-hour days, overtime pay for State and local law enforcement per-

sonnel. The Office of Homeland Security has asked State police to increase their patrols of State nuclear facilities, without any Federal compensation or timetable for how long state assistance will be needed. Meanwhile, the activation of 57,000 National Guard and Reservists to support the Armed Services during our operations in Afghanistan and our counter-terrorism activities here at home has drained the manpower of many State and local police departments.

According to the National Governors' Association, State police patrols of our nuclear facilities will cost States an extra \$58 million this year. It will cost another \$46 million to secure our dams and bridges, \$28 million to protect gas pipelines and power stations, and \$75 million to assist Federal authorities with patrolling our borders.

Who makes up the National Guard? If I am wrong, I would like someone to point it out to me. Do doctors serve in the National Guard? Do policemen? Do law enforcement personnel? Do paramedics at the homefront and at the local level serve in the National Guard? Then why should we take those men and women away from the local level where they are most needed and where they will be the first to answer the call and send them up there to the northern border to patrol the border? What sense does that make? We need to keep them at home.

According to the U.S. Conference of Mayors, Los Angeles has spent more than \$11 million so far due to increased security costs and lost revenue related to the September 11 terrorist attacks. The city's police and fire department deficits have doubled.

In Boston, Mayor Thomas Menino must now pay \$20,000 in additional security costs every time a tanker enters his port carrying liquefied natural gas, and 42 tankers are on the way. Police overtime expenses alone in Boston so far total about \$700,000.

Denver Mayor Wellington Webb is facing a long list of emergency needs, including biohazard-decontamination units, protective suits, bigger stores of antibiotics and drugs, special cameras, an anthrax detector, and a preparedness guide for every household that will cost in total \$610,000.

In Baltimore, Mayor Martin O'Malley spent \$2 million in overtime for police and fire departments in the first three days following Sept. 11. By year's end the added security costs are expected to hit \$14 million.

Security costs in Dallas have passed \$2 million and could reach \$6 million by the end of the year.

At a time when our State and local governments are cutting budgets due to the recession, our State and local law enforcement need our support, and they need it now.

Ms. STABENOW. Mr. President, will the distinguished Senator yield for a moment?

Mr. BYRD. Mr. President, I am happy to yield to the distinguished Senator.

Ms. STABENOW. Thank you, very much.

As a Senator from Michigan, I wanted to rise to agree totally with what Senator BYRD is saying today about the pressure on our northern borders and our law enforcement officials who are now donating overtime on the borders. In Michigan, we have four different border crossings. We have the busiest bridge in the country through Detroit. We are stretching our local law enforcement to the limit, and we are using our National Guard as well. But we certainly have tremendous pressures on us.

I wanted to congratulate the Senator from West Virginia for what he is proposing.

I also wanted to quote for the RECORD part of an article that was in the Detroit Free Press, entitled "State's Health Care System Unready for Major Bio-Terror."

It says:

The call came late the evening of Oct. 25 to the top health officer for two Upper Peninsula counties.

Dr. John Petrasky was told that a woman who had exhibited only mild cold symptoms the previous day had died. Her relatives said she had received a stranger letter with powder in it the week before.

Was this anthrax?

A pathologist at Marquette General Hospital refused to do an autopsy, fearing his facility couldn't contain lethal bacteria. No one at the state Department of Community Health in Lansing knew where the nearest properly ventilated autopsy room might be, Petrasky said.

Finally, a pathologist tracked down by the U.S. Centers for Disease Control and Prevention advised doing a limited autopsy. The Marquette doctor agreed, and 19 hours later, Petrasky had his answer: It wasn't anthrax. The woman had died of something completely unrelated, and the crisis was averted.

Or was it?

In the weeks since Sept. 11, many Michigan hospitals and public health agencies are realizing how ill-prepared they are for biological or chemical warfare. Many hospitals lack proper decontamination and laboratory facilities. Public health departments are strapped by low staffing levels and inadequate communication between the departments and the state. Doctors are learning they may not know how to spot rarely diagnosed diseases like anthrax.

After years of hospitals and public health departments being pushed to run lean, some say what's left is a system that can be overburdened by a bad flu season.

"We don't have enough beds. We don't have enough nurses."

This is a very serious situation.

I cannot imagine a greater urgency.

I wanted to thank the Senator for his leadership on this issue.

I cannot imagine why we would not be coming together 100 Members strong in this Senate. We understand more than anyone else, given what has happened in our own complex with anthrax and the difficulties and challenges of finding out how to respond to it. We can only imagine how small communities in northern Michigan are struggling when they believe they may have, in fact, encountered something related to bioterrorism.

I congratulate the Senator from West Virginia. There is a tremendous sense of urgency in my State of Michigan and around the country. People assume we are acting. We are acting together in the defense of our country overseas. It is now time to act in defense of our homeland.

That is what the Senator from West Virginia is proposing, and I am hopeful that our Senate colleagues will join in supporting the plan that he has put forward, and which is so needed for all of our families.

Mr. BYRD. Mr. President, I thank the very distinguished and able Senator from Michigan for her cogent, very persuasive and forceful remarks, and for the observations she has made with respect to the needs of those at the local level who bear a responsibility to detect and to respond in the first instance to acts of terrorism on the part of those who have said to us: We will kill Americans.

As to the FEMA firefighters program, many people are just now beginning to appreciate the critical role played by our Nation's firefighters. We have taken these heroes for granted and, tragically, they have been denied the funding resources necessary to enable them to do their job as safely and effectively as possible. Their job is to protect people—men, women, old people, children. That is the job of these firefighters.

Last year, Congress took action to begin to address this provision by creating a new Federal program to provide direct assistance to fire departments.

Administered by the Federal Emergency Management Agency, the Assistance to Firefighters Grant Program received an initial appropriation of \$100 million, which was quickly depleted by tremendous demand. The agency received more than 31,000 applications totaling nearly \$3 billion in requested funds—almost 30 times the amount appropriated.

This package includes \$300 million in grants to State and local communities to expand and improve firefighting programs through FEMA firefighting grants. Over 50 percent of that funding goes to volunteer fire departments in rural communities.

Some rural communities in this country are using fire wagons, firefighting machines, and fire trucks that are 20, 30, or 40 years old. In the countryside, the volunteer fire department is the first and only entity available to deal with a crisis.

Now, we have heard much about the letters that have come to the Senate leader, Senator DASCHLE, and to the Senator from Vermont, Mr. LEAHY, and to some other Americans. So today the American people are victims of terrorism by mail, delivered to your home, brought to your street address. We will deliver it, packaged, ready to kill.

This is not something that might happen sometime in the future; it is happening now. I do not like for my

wife to go to the mailbox. Who knows. There could be an envelope in that mailbox that could have some deadly pathogen enclosed. It could be your wife. It could be your daughter, your father, your husband. This is real.

How do we know? I know. My staff has not been in their offices since October 15. That is how I know. We are located in the southeast corner of the Hart Building. How many letters have I received since October 15 from my constituents, who send me here to vote to protect them and to protect their interests? How many letters have I received? Twelve. We received 12 yesterday, 12 letters. It is real.

And we seek to protect ourselves. We have fumigated the offices. We have taken action to decontaminate the offices so that our people can move back into those offices. Action has been taken to clear the streets nearby while these things have been going on to decontaminate our offices.

How about the people on Main Street in Sophia, are they being protected? Oh, it is easy to say to our people: Go about your business. Everything is OK. Get out there and go to the stores, go to the movies, go to the restaurants, buy, buy, buy. It is easy to say that. It is easy for me to say: Come to West Virginia. We want to build up our tourism in West Virginia. Come to see West Virginia. Come to see Washington. I can say that, can't I?

Why? I have much in the way of protection here, and so does every other Senator. The President pro tempore has security—takes him home with him at night, brings him to the office in the morning, stays in the office daily, stands outside the office, ready to protect the President pro tempore against all comers.

The President goes in Air Force One, the Vice President goes in Air Force Two, other people high in the Government have protection.

Out here we have concrete barriers. You cannot get into this Capitol without being carefully scrutinized and having your pocketbooks opened and your packages carefully inspected. We are protected. We live in this little, tiny bit of the world.

The worm crawled upon the clod, and the worm said: Aha, I see the world.

The squirrel climbed the tallest pine in the southern hills, and he looked about him and he said: Aho, I see the world.

The eagle—the national emblem of our country, the eagle—flew high above the Earth into the blue heavens and said: Ho-ho, I see the world.

So we see the world in our own little corner here. I feel safe—fairly safe—because of all these protections here. But we do not see the world as that miner or that farmer, that office worker, that professional, that lawyer, that minister, the housewives, the school-teachers out in the rural areas of the country or who are out in the greater urban cities.

We do not see things as they see them. They do not have Secret Service

to protect them where they go. They do not have security personnel to protect them, as I have. They do not have the concrete barriers out there. They do not have the physician just 2 minutes away from my office. They live in a different world.

Why can't we see it through their eyes? Why can't we take off the green eyeshades and see the world as our people see it—the people out there who are subject to these terrorists, who run these risks every day, those who come into Penn Station in New York. Seven hundred fifty trains every day come into that station—500,000 persons: Commuters, tourists, people on their way to work—500,000 every day. Can they see the world through our eyes?

They come in the tunnels, tunnels that were built before World War I, tunnels that are inadequately lighted, inadequately protected, and without adequate means of access—ingress and egress—without adequate escape routes, without adequate ventilation. Those are the tunnels.

Those people face these potential terrorist acts every day, going to work, coming from work, wanting to do no more than just earn an honest living, earn their daily bread by the sweat of their brow. They need protection. Who are we to deny it to them? Fie on us. We know the need is there. And we know it is our responsibility to provide it. And we are doing it. We are doing it in the package here that has a little blue ribbon around it that says: Mr. President, you can spend this. It is here. You do not have to spend it, but here it is—right now, tonight—if you need it to protect the people.

That first phrase in the preamble to the Constitution of the United States says: "We the People of the United States, in Order to form a more perfect Union. . ." That is not talking about an aisle that separates one party from the other. That is not talking about in order to form more perfect political parties—"a more perfect Union." And now is the time when we should do our part to form that "more perfect Union" right here in this Senate and join together and vote together to support this eminently sensible package.

The U.S. Postal Service is a \$70 billion organization, and it is part of a \$900 billion industry. It has seen mail volume drop by 7 percent since September 11 and lost between \$200 million and \$300 million in revenue. The Postal Service reported a \$1.7 billion loss in fiscal year 2001—on top of \$200 million in losses last year.

The Postal Service has asked for \$3 billion to cover the cost of equipment to safeguard the mail. In response, the administration has provided \$175 million so that the Postal Service can buy gloves and masks for now and has promised more money later. It is almost laughable, if it were not so serious.

That is not enough money for the Postal Service to deal with this crisis that is happening right now. Here it is.

The words read "postal security, \$875 million."

This package provides an additional \$875 million to begin to make the security changes necessary to keep the mail moving and to allow the Postal Service to respond immediately to this and future terrorist attacks.

How little did I imagine, when I came to this great institution, the legislative branch, 50 years ago next year, how little did I realize that there would come a day when our mail would have to be screened, when I, as an elected representative of the people of West Virginia, would see my staff forced to evacuate the U.S. Senate office building in which they were located? How little did I foresee that the time would come when, over this long period of time since September 11, only 12 letters would reach my office from my constituents, and only yesterday did the 12 letters come. I never dreamed of such a thing, never dreamed of it.

Yes, I was there in the House of Representatives when the Puerto Ricans, who were in the galleries, shot Members of the House who ran for the doors, who fell behind the desks, and who fell in the center of the floor of the House of Representatives, wounded. Not until then did they require that Members have cards that they could present to the galleries. I sat there tongue-tied as I watched. I thought it was a group of demonstrators using firecrackers or some such until I saw Members fall.

Little did I know at that time that the day would come when this deadly anthrax would be delivered right to our building, right to our doors, the office doors, right to the desks of the workers. I never thought about that. But we know it now.

Our border security is dangerously underfunded. It leaks like a sieve. Right now, today, the Immigration and Naturalization Service conducts some 500 million inspections at our ports of entry every year. Yet there are only 4,775 INS inspectors to process these hundreds of millions of visitors. That is one inspector—just one—for roughly every 100,000 foreign nationals who cross the Nation's borders.

There are only 2,000 INS investigators and intelligence agents to track aliens who have entered this country illegally, overstayed their visas, or otherwise violated the terms of their status as visitors in the United States. That is one—just one—investigator for every 4,000 illegal aliens.

The U.S. Customs Service currently has the resources to inspect only about one-third of the truck cargo crossing the southern border. And of the 400 ships that dock in the 361 ports of this country, only about 2 percent of the cargo is inspected.

On our northern border with Canada, the Immigration and Naturalization Service currently has 498 inspectors at ports of entry and 334 Border Patrol agents assigned to the northern border. That is a 4,000-mile-long border. So

that equates to about one INS inspector for every 8 miles and one patrol agent for every 12 miles of the 4,000-mile-long northern border.

Of the 113 northern border ports of entry, there are 62—more than half—62 small ports that do not operate on a 24-hour basis. Just imagine pulling up to one of those 62 ports of entry along the northern border where we don't have agents 24 hours at a time. There you will see a sign that says "stay out." There you will see a yellow cone—not a person, not an INS agent, not a Customs agent but a yellow cone. It is open some hours of the day when there is nobody there during certain times of the day.

This week the Attorney General announced an emergency program to place National Guard troops on the northern border. A Justice Department official stated that "it is a great vulnerability that needs to be dealt with immediately."

This package reads, "border security, \$591 million," for additional Border Patrol agents and screening facilities primarily on the northern border. We must provide the funds and we must do so now.

I spoke a moment ago about our seaports, our lack of adequate port security. Our seaports are perhaps the weakest link in our national security. Yet they are just as important to our border security as are our land borders with Canada and Mexico. And yet they remain dangerously exposed. Ports are international boundaries through which 95 percent of U.S. international trade arrives.

Last year, we imported 5.5 million trailer truck loads of cargo. Yet the U.S. Customs Service has the resources to inspect only 2 percent of the cargo that enters this country by sea.

As we were preparing this package in my office, Senator HOLLINGS raised the warning sign: The need for money to be used for security of our ports.

With only 2 percent of the cargo that enters the country by sea being inspected, that means a terrorist would have a 98-percent chance of sneaking illegal and dangerous materials into this country. So our chances are 2 out of 100. The terrorists' chances are 98. So it is 98 to 2 percent.

The average shipping container measures 8 feet by 48 feet and can hold 60,000 pounds. That is just the average. A bulk ship or tanker transporting cargo can hold hundreds of times the amount of explosives or other dangerous materials that could ever be smuggled on an airplane or a truck crossing a land border. While agents at the U.S.-Mexican border are tearing the seats out of a car to search for drugs, a crane just up the coast a little ways in Los Angeles can lift thousands of truck-size cargo containers on to the dock with no inspection at all.

I remind my distinguished colleagues that Osama bin Laden has vast shipping interests which he used to transport and sneak into Kenya and Tanzania the explosives used in the U.S. Embassy bombings.

Last month, a suspected member of the al-Qaida terrorist network was arrested in Italy after he tried to stow away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source—how about that, its own power source—to operate the heater and to recharge the batteries. That terrorist was ready, he was prepared. According to the Toronto Sun, the man also had a global satellite telephone, a regular cell phone, a laptop computer, cameras, identity documents, an airline mechanics certificate, and airport security passes for airports in Canada, Thailand, and Egypt. He had thought of everything. This incident only expands what type of cargo we must be looking for at our Nation's ports.

The danger is here, and it is now, and it is not waiting until next year's supplemental to cross the desk of the President along about the middle of July or August.

**Nuclear powerplants:** In just the past few days, I can recall seeing headlines in the Washington press about the dangers to our nuclear plants in this country.

I have on the chart a map of the United States showing where the nuclear power reactors are, in the red cone, and where the nonpower reactors are. They are the reactors that are used for educational and research purposes. They do not produce power. The weapons complexes are shown by the green dots. The nuclear reactors are shown by the red cones. The nonpower reactors are shown by the blue squares.

There are 19 States in this country that have no nuclear plants, that have no power-producing reactors. There it is.

Mr. President, nearly every facet of daily life that was America prior to September 11 must now be regarded in a new light. We have to climb upward from the worm's clod, upward from the squirrel's tree. We have to go above the eagle's flights to see the world as it is and as the people out there who sent us here see the world, not through green eyeshades. But they see it every day.

Nearly every facet of daily life must now be regarded in a new and different light. The face of our enemy has become increasingly clear in recent weeks. He is an enemy who will live among us. He is an enemy who will enjoy our generosity and the blessings of our freedoms. Then he will callously turn all of these against us.

This is an enemy with no fear of death. None. He will count it an honor to die, to kill Americans and to die in the act. He will be immediately entered into paradise. They have no fear and apparently little regard for life. This is the enemy of our nuclear nightmares.

According to the Washington Post of December 4, U.S. intelligence has compiled credible information that Osama bin Laden and his al-Qaida terrorist network have taken several disconcerting steps toward developing radiological weapons. The Post reported that bin Laden and his loyalists "may have made greater strides than previously thought toward obtaining plans or materials to make a crude radiological weapon that would use conventional explosives to spread radioactivity over a wide area, according to U.S. and foreign sources."

There you have it. Now we are being warned. In fact, the Post relayed a discomforting description of a meeting within the last year in which "bin Laden was present when one of his associates produced a canister that allegedly contained radioactive material. The associate waved the canister in the air"—as one would wave an aerosol air spray. Ha, here it is; I have it; eureka—"The associate waved the canister in the air as proof of al-Qaida's progress and seriousness in trying to build a nuclear device."

Most young Americans have never known the fears of nuclear war that once haunted their parents and grandparents. They have never had to hunch under their school desks in nuclear drills or stock the family fallout shelter with jugs of water or cans of food in preparation for attack. We of our generation have seen these things. And while, to date, we have seen no evidence that bin Laden has the capability to deliver a nuclear warhead, he has made clear his intention to acquire such technology, and it is increasingly evident that he may well possess and be prepared to use a crude version known as a "dirty" bomb.

Clearly, he is well positioned to possess such a weapon and the makings of such a device are pitifully easy to acquire.

The key ingredient is radiological material, which exists in abundance in Russia, just next door to Afghanistan, and right here in our own country at nuclear power plants and research facilities. While we would like to believe that such material is closely guarded, the United Nations' International Atomic Energy Agency has confirmed 376 cases of illicit sales of stolen radioactive materials since 1993. That was in USA Today, November 3, 2001.

Although a dirty bomb does not have the kind of massive explosion that destroys broad areas, the detonation of such a weapon would have devastating consequences. Some experts have estimated that a single such bomb could cause 100,000 casualties within a 3-mile radius in an urban area, and render it uninhabitable for years, if not decades.

If we Senators think we have been terribly put out by the evacuation of our staffs from the southeast corner of the Hart Building—and my staff falls into that category—if we think that is bad, let the terrorists find some way—remember, bin Laden does not count

his life as anything. He will gladly consider it an honor to lay down his life, not for his friend, as the Scriptures say, but to kill Americans. He would count it an honor.

Remember, they have shown they can deliver catastrophe, disaster. They can guide a plane into each of two world towers. They can demolish them. They can kill thousands of people. We need not ponder as to whether or not they could find a way to deliver this dirty bomb which, if exploded on The Mall in Washington, would render the buildings around The Mall uninhabitable. And if the wind were coming our way, it would do the same with the Capitol, and the people at the White House would not be at the White House any longer. They would have to go to "undisclosed locations." For a month? For a year? For a decade? Picture that. What about the fear that would spread throughout the country?

It was in 1991—10 years ago recognizing the potential for the vast number of Russian nuclear weapons to fall into the wrong hands, that the Congress created the Nunn-Lugar Program to eliminate Russian nuclear weapons in a safe and secure manner. The budget for this program has been cut back for each of the last 3 years, but not because Russian nuclear weapons are now secure. In fact, in January 2001, a panel headed by former Senator Howard Baker and former White House Counsel Lloyd Cutler found that the threat of terrorists getting their hands on Russian nuclear weapons is the most urgent unmet national security threat to the United States today. Clearly that threat remains. My homeland defense package provides \$286 million for nuclear nonproliferation programs that would help to get at these unabated sources of nuclear material abroad.

Moreover, my package contains \$215 million to help secure nuclear facilities on our own shores, and to peacefully engage these 60,000 nuclear specialists in Russia not employed now that the Soviet Union has broken up.

It has taken decades of public relations and education to begin to ease the discomfort once prevalent among communities asked to house nuclear energy facilities. Even now, though the Nation boasts 104 nuclear power reactors, many Americans are unsettled at the thought of having such a nuclear neighbor.

Today, through long years of safe operations, nuclear power is a significant player in the international power generation game, and it is an important part of America's overall energy mix.

(Mr. DAYTON assumed the Chair.)

Mr. KENNEDY. Will the Senator yield for a question now or sometime later in his presentation, whatever would be agreeable? There are some questions in particular on Nunn-Lugar I am interested in addressing to the Senator as it applies to the whole issue of bioterrorism. But I am glad to wait, if he desires, to inquire of him after he has some additional time for his presentation.

Mr. BYRD. If I may continue for another minute or two, I will be happy to yield.

Mr. KENNEDY. I thank the Senator. To keep it that way, nuclear power companies and the NRC recognize the need to reassure the public that their plants are secure—not only secure in the sense of the pre-September 11 world, but also impervious in the post-September 11 world. That may be one tough job.

Nuclear plants, though built to tough standards, were not designed to withstand the impact of a commercial jet-liner. But what is really disturbing may be that, even though the plants have been designed with a goal of stopping an assault on land—something along the lines of well-armed intruders in heavy trucks or SUVs storming the plant—their tested security performance is surprisingly poor.

In fact, according to another recent article in The Washington Post though the plants are always warned in advance about the NRC's tests, which involve mock assaults by actor-intruders, 47 percent have revealed "significant weaknesses" in their security forces—significant being something in the realm of an American Chernobyl.

There are, however, other less well-publicized security problems at our nuclear facilities that need attention now.

Questions about just who is employed in our nuclear program in this country are begging to be addressed. The Los Alamos Laboratory scandal provided a mere glimpse of the security challenges confronting a field whose payrolls are thick with foreign-born employees, and a nation that has long provided educations to foreign students seeking to build careers in such fields as nuclear physics.

Moreover, in response to concerns about "dirty" bombs, many industry critics are currently looking with renewed concern at the 40,000 tons of spent fuel stored at operating and shut down plants in our own country. These radioactive pools, housed in standard concrete or corrugated buildings, have never been the focus of NRC security tests. The Union of Concerned Scientists reportedly refers to these buildings as "Kmarts without neon." To a determined terrorist, they are thrift stores of bomb-making material.

NRC Chairman Richard A. Meserve, conservatively referring to the events of September 11 as "a wake-up call," conceded that the terrorist acts have changed the agency's attitude about "reasonably foreseeable" threats, and ordered a "top to bottom" review of security rules. But whatever the outcome of the review, action is needed sooner rather than later.

The plants have already been placed on high-alert. Defenses have been bolstered on land, in the air, and on nearby waterways. Patrols of local police, as well as private security businesses and even some National Guardsmen, have been stepped up. All of these measures are costly. And a new review of our nuclear plants under the lens of

terrorism potential is sure to identify additional security risks and recommend additional security measures.

Make no mistake about it, our over-dependence on foreign fuels, particularly from lands where political tensions run high, is a vulnerability waiting to be exploited. If our energy grid is dismantled, if our power plants are attacked, if our nuclear advances are pirated and turned against us, America will feel the shockwaves. Moreover, if our nuclear plants are assaulted, if they can be made into weapons in our own backyard, the confidence of the public so carefully nurtured by the nuclear industry in recent years would be destroyed. It would be a heavy blow to our Nation's energy security.

I am happy to yield to the distinguished senior Senator from the State of Massachusetts, if he so desires.

Mr. KENNEDY. Thank you very much, Senator.

In reviewing the content of your proposal, I would like to ask a question. We believe as a Congress and as the Senate of the American people in giving the full support we can possibly give to the men and women fighting in Afghanistan—supporting their efforts with the best equipment, the best technology, the best leadership, and the best training. We have had good discussions and debates over a period of time as to how that can and should be done. I don't know if the Senator was there when we had the Secretary of Defense briefing Members of the Senate. He was asked specifically: Was there more to do?

His response was: We will have a chance after the first of the year.

As someone who listened to that briefing, I certainly felt, as a Senator from Massachusetts having supported the past Defense appropriations bills, we had done what was necessary to secure the defense and to carry forward America's interest in the battle against terrorists.

Now I ask this question: It appears to me we have followed our experts in assuring that those who are going to be on the front lines of the military will have the best resources. Shouldn't we follow the experts who are similarly engaged in trying to advise us as Americans what we can do and must do in order to battle against bioterrorism? It seems to me in reading through the thoughtful, compelling rationale for the Senator's amendment, that is just what this amendment does. I ask further if the Senator would not agree.

We have just heard in the past few weeks the head of homeland security, former Governor Ridge, say: Next year, we are going to have to spend billions and billions of dollars to build up our public health systems so we will be able to have an early warning system in this country. That is what has been recommended by the public health system that has studied the program. He is talking about billions and billions of dollars next year.

We have had the work group on bioterrorism preparedness, a conference of leading experts in bioterrorism and

public health. It is probably the most distinguished group of individuals that have studied this problem—long before September 11. Many have been involved in the elimination of smallpox, as has Dr. Henderson. And having worked in the former Soviet Union, he recommended we needed at least \$835 million just to begin to meet the public health needs to fight bioterrorists. That recommendation was made prior to the anthrax incident.

We have had the National Governors Association discussing their estimate in terms of the needs they face in public health. We have had the American Hospital Association discussing \$11 billion so hospitals can be prepared. We have had Johns Hopkins University, which houses probably the most thoughtful bioterrorist center in the country, which Dr. Henderson headed. They said just to make the hospitals ready in the major cities is another \$750 million.

This is billions and billions of dollars. I am impressed by the fact that the Senator's amendment is a modest amendment. It is targeted to current needs and can be expended immediately in order to make sure there would be safety and security for our fellow Americans.

I have difficulty understanding why the administration wants to wait until next year to start this process when we know if we wait, we are putting at risk the lives and the well-being of our fellow citizens. I am interested in asking the Senator, if we are listening to the best in terms of our military advice, shouldn't we listen to those experts in the area of bioterrorism who are advising and giving us notice. Shouldn't we listen to those experts who have an awareness of the country's needs, and try the best we can to follow their recommendations?

Is not the Senator's amendment a reflection of the best in terms of those who have studied this problem?

Mr. BYRD. Mr. President, the Senator is preeminently correct. As we in my office, our staff, considered this package, we were mindful of the testimony that had been given in the appropriations subcommittees. We were mindful of the subcommittee that had been chaired by Mr. DORGAN, the subcommittee that had been chaired by Mr. HARKIN, the subcommittee before which Senator KENNEDY and Senator FRIST, the eminent "one" physician in our midst, before which subcommittee they appeared and recommended monies be spent for bioterrorism. I was visibly impressed by their testimony and commented on it. They had studied this matter quite at length. They had listened to the specialists in the field. They had listened to the Governors. They had listened to mayors. They had listened to legislators at the State level. They came up with this very tightly drawn package, bioterrorism package.

We have used that information, used that material and used the advice of

the Senator from Massachusetts and the advice of the Senator from Tennessee, Mr. Frist, as we put this package together.

So in that bioterrorism area, we have sought to improve the food inspection lines, we have sought to provide for additional studies of advanced and second generation anthrax and other viral agents, and we have sought to provide for the laboratory specialists, the CDS and the labs at the State and local levels, the moneys they need to deal with the next attack.

You see, we are not dealing with just the last attack. We are dealing preventively, we hope, against the next attack.

Let me take this opportunity to compliment the distinguished Senator. He has been busy day and night, and so has Dr. FRIST, in talking about, in working in connection with, this area of safety and welfare for the American people.

Mr. KENNEDY. I thank the Senator for his remarks.

I pay tribute to my colleague, Senator FRIST. Senator FRIST and I had hearings going back to 1998, 1999, and then passed legislation dealing with bioterrorism and also drug-resistant bacteria. The kinds of problems we were facing, healthwise, were similar to problems with many of these pathogens.

But I want to raise another question to the Senator. I have before me the review of the States by the Public Health Service. This is after the anthrax attacks that have infected 17 and killed 5 of our fellow citizens. What we have seen in the wake of these attacks is that our capacity to deal with this was right at the edge of being overwhelmed. And not just in the particular regions where these incidents took place but all across the country, all across the Nation.

I will just read about a few of the States. I will include in the RECORD a few examples from the States that illustrate this. Let me mention these incidents and ask the Senator whether this is something to which he believes his particular measures will respond.

Here is the State of Iowa after the anthrax attack. This report is very recent—just a few weeks old. They are talking about the public health situation of Iowa.

The State and local public health systems have been overwhelmed trying to meet the needs of State and local law enforcement agencies in evaluating testing threats. We have been working 10-hour days and all weekends, just to try to keep our heads above water. We need help.

That is Iowa.

Ohio:

We have processed 722 samples related to the anthrax threats in the laboratory. The signs of stress are showing in a number of staff as a result.

This is Ohio.

There is not enough staff to respond to all the tentacles that are out there with the public in terms of these false attacks that were taking place.

Tennessee:

Our communicable disease control in our 13 regions has been working night and day to respond to white powder exposures. The State laboratory has been overwhelmed with volume testing, 450 testings in 3 weeks. We have had to pull resources from other areas, leaving us vulnerable to food-borne outbreaks.

In Wisconsin:

We have processed more than 400 anthrax related specimens since October 10. The staffs are overwhelmed and overstretched.

This is true in just about every State of the country. These examples are just a result of these past weeks. The Senator is asking why should we take a chance with the health and the lives of the American people in not putting in place the kind of mechanisms we have had recommended to us in order to protect the lives of American people.

Senator, earlier today in the Judiciary Committee we heard from Attorney General Ashcroft. He spoke of all the emergency steps that are being taken in order to deal with the problem of terrorism here at home. We are supportive of so many of those. We heard of the extent to which we are going in order to protect the lives of American people, and all the times we might have to bend the civil liberties of the American people in order to protect them. We are here to make sure we are going to try to get it right—that those steps are going to be effective and they are going to be able to do their job and while also protecting our rights.

Now we come over here this afternoon, and the Senator from West Virginia has an eminently reasonable, responsible amendment. His amendment responds to the findings, the recommendations, and suggestions of people who know this business, and we are told, well, we don't have to deal with this.

I commend the Senator for his thoughtfulness in bringing this together.

I will just make a final, quick point and ask the Senator whether he might agree with me. We have a strategic oil reserve. We have this strategic oil reserve in order to protect the American industry and American families if we run short of oil or if oil is going to run excessively high in cost. I wonder why we should not have a strategic pharmaceutical supply, so we are able to guarantee to every child, every elderly citizen, in this country that if we face the challenge of smallpox—that they will be adequately protected. If we can do it in terms of oil, it seems to me we ought to be able to do it in terms of smallpox. The amendment of the Senator from West Virginia moves us down that path. Any Senator who supports that amendment will be able to go back home, and in any town meeting they have with parents around this country, they will be able to say: We voted to make sure we are going to be able to provide smallpox vaccine if it becomes necessary to protect your child.

How does anyone believe that is somehow a failure of investing in the security of this country?

The bioterrorism amendment of the Senator is a few billion dollars. We are spending billions of dollars overseas—and I support that. Why is it we are willing to spend billions of dollars overseas to try to dislodge al-Qaeda that may kill some Americans in the future, and fail to support the amendment of the Senator from West Virginia, which is a few billion dollars in order to protect American citizens? I just don't understand it.

I don't know whether the Senator can help me to try to understand the rationale and reason for that because it seems to me he has made eminently good sense. The amendment is based upon the solid record of those who have studied this particular issue and is in response to the needs we are facing.

I know the Senator has other matters to which he wishes to speak. But I remember when we had the Office of Technology Assessment. They did a study about the potential impact of an anthrax attack on the United States. It was going to cost, for 100,000 Americans who were exposed—it was going to cost \$26 billion, for each 100,000 Americans who were exposed.

We are talking about all different kinds of possibilities. The Senator has in his homeland security proposal a very important downpayment to make sure we are going to meet those threats. He has other very important measures to which I know other Members want to speak. But the evidence is there.

I mention finally on the bill the Senator referenced—the bill Senator FRIST and I introduced—there are now 74 cosponsors of that bill. Yours is a slight degree above the Frist-Kennedy bill, but there are 74 cosponsors for our bill.

I, again, thank my friend and chairman of that committee for his foresight in this area, and for all the good work he is doing to protect families on the issues of bioterrorism. I know that later on we are going to have an amendment by the Senator from Indiana with regard to the Nunn-Lugar proposal which will help deal with the problem and dangers of nuclear proliferation.

Also, we are concerned about the dangers of proliferation of bioterrorist material that exists in the Soviet Union. The Soviet Union at one time was able to produce 24 tons of anthrax a day. They have stored that in various areas. Even Mr. Chernov, who was a member of their national security council, was warning that he was not satisfied that they had adequate protections.

We are interested in trying to work cooperatively with the Soviet Union to contain it.

We are interested—as this amendment will do—in building the early warning systems through the public health systems. We want to build and support the treatment which is necessary in terms of helping and assisting

the hospitals, and we want containment so that it will not expand.

The Senator from West Virginia has an amendment that deals with all of those measures as a downpayment for every family to make sure they are going to be protected from a bioterrorist attack.

I commend him and look forward to supporting his amendment.

Mr. BYRD. Mr. President, I thank the Senator for his cogent, lucid, and very pertinent remarks. It boggles my mind, it boggles my mind and my imagination that there is opposition to this package.

Does the Senator know that we have this package wrapped up and tied with a little blue ribbon, and on that ribbon is the word "emergency?" We have an emergency designation on this whole package.

If the President wants to use the money, it is there. We say: Here it is, Mr. President. We want to help you keep your promise to the military.

There is \$21 billion for the military. That is what the President said he wanted for defense. Every penny is there. We have not cut a penny.

He said on September 20 to the joint session of the Congress—I was there, the Senator from Massachusetts was there in the House of Representatives when the President spoke.

Our Nation has been put on notice. We are not immune from attack. We will take defensive measures against terrorism to protect Americans.

Here it is. Right here is the defensive measure to protect Americans against terrorism. I am trying to help the President keep his promise.

He also promised \$20 billion for New York City and the other communities that were involved in that attack. He promised them. We are committed to it. We are trying to help the President. I am not trying to get in his way. I am not trying to embarrass the President. I am saying, Mr. President, let me on your boat.

I am trying to help him. Here it is. You don't have to spend it because we have an emergency designation.

What is wrong with that? Who can complain about that? The American people want this. They need it. They are entitled to it, and we have a responsibility to give it to them. This is defense. Whether it is in the foreign fields or here in this country, it is defense.

When we talk about helping our military, we have military people in this country. They are training in this country. They are in Georgia. They are in South Carolina. They are in California. They are all around the country. They, too, might suffer from a pathogen that comes in the mail. They, too, might suffer from a terrorist act.

We are acting to protect our people, whether they are in the military, or whether they are not in the military in this country and abroad.

We are trying to help our President to keep his promise. We are not trying

to be a problem for him. We are trying to help him.

I am sorry that I think he is being ill advised by some people around him. I will not name of whom I have suspicions. But I think the President is well meaning. I was impressed with the President when he spoke at the House of Representatives. But I think he is being ill advised.

This is not a party matter. It is not a Democratic matter. It is not a Republican matter. It is not a Republican threat.

So help us. Let us join together and fulfill that first phrase of the preamble of the Constitution:

We the People . . . in Order to form a more perfect Union . . .

Let us form that more perfect union. Let us form it here. Let us form now that more perfect union. Let us have no aisles separating Democrats from Republicans on this issue. This is not a political matter.

I thank the distinguished Senator for his observations, for his good work in this area, for his support of this effort, and for the leadership he is providing.

Mr. DORGAN. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield for a question.

Mr. DORGAN. Mr. President, I wanted to ask the Senator from West Virginia a question about the issue of border security for which he provides in his amendment.

I am especially interested in the issue of the security of our northern border. We have twice as many Customs agents on the southern border between the United States and Mexico as we do on the northern border between the United States and Canada.

With respect to the Border Patrol, we have roughly 500 Border Patrol agents on the northern border between the United States and Canada to control those 4,000 miles. We have 9,000 agents on the southern border between the United States and Mexico.

I note that the Senator has included in his amendment some resources to deal with this border issue. The reason I ask the question is you cannot provide security for this country unless you provide security for our country's borders—not just some of the borders but all of the borders because the terrorists will seek the weakest link.

There was recently a story of a fellow from the Middle East who was shipping himself in a container to Toronto, Canada—a suspected terrorist. He put himself in a container. He had a food supply; he had a heater; he had a global positioning satellite mechanism; he had a cell phone; he had a toilet. He had all the comforts. He had food.

When they found him in this container on a container ship having tried to ship himself to Toronto, Canada, he got out of the container, and they said he was very well dressed. He looked quite well.

The question is, If he is shipping himself in a container to Toronto, Canada,

to come into this country to commit a terrorist act, do we have the resources on the northern border to be sure that we are going to catch suspected terrorists or those associated with terrorists who are trying to come into our country?

At the moment, on the northern border, Customs agents are working 12 to 14 hours a day, 6 days a week, and have ever since September 11.

The President did not request additional resources for new Customs agents. He requested some additional resources to pay for overtime, which they will have to do given these outlooks. But the fact is, we need more agents. We need new resources.

It is very interesting that a request was made by the administration for Border Patrol agents and for immigration agents but not for additional Customs Service agents.

The Senator, with his amendment, has provided for additional resources for our border protection and border security, especially on the northern border. Is that not the case?

Mr. BYRD. That is true. We have presently 498 inspectors on the 4,000-mile long northern border—334 individuals who travel from one area to another, the Border Patrol—and at 62 of the 113 ports of entry along the northern border nobody is watching at certain hours of the 24-hour day.

We are trying to provide additional moneys in the amount of an extra \$551 million to meet these needs and to meet them now. Yes.

Mr. DORGAN. Mr. President, if I might inquire further of the Senator from West Virginia, I have traveled to those border ports of entry. My State has a long common border with Canada. I have been there at 10 o'clock in the evening when the port of entry closes. I have seen what they do. On that paved road between the United States and Canada, at closing time, they put out an orange rubber cone in the middle of the road, and that is our security past 10 o'clock at night.

As I have indicated, an orange rubber cone cannot walk, it cannot talk, it cannot shoot or tell a terrorist from a tow truck. And the polite people who violate our ports of entry, they apparently stop the car, after the port of entry is closed, and they actually move the rubber cone, drive through, and put the cone back. Those who are not so polite come running through at 60 and 80 miles an hour and just shred the rubber cone.

The point is, terrorists will always find the weakest link. For this country to have good security, adequate security, that gives people confidence, you have to have security of all of your borders. And it has not been the case with the northern border.

It is the case that the Port Angeles point of entry is where the so-called millennium bomber tried to come through, and a very alert Customs agent caught the millennium bomber who was intending to bomb the Los Angeles Airport.

It is also the case that Middle Eastern folks were inquiring in a small Canadian town just 100 miles north of the border of North Dakota about the capability of crop-spraying airplanes. This was at the time Mohamed Atta was doing the same thing in Florida. And others were doing the same thing in other parts of the country—150 miles from Minot Air Force Base where we have our B-52s housed.

The point is, we must be concerned about all of our borders. I deeply appreciate the Senator's amendment dealing with the northern border security, which was left out—with respect to the Customs Service, especially—of the President's request.

If I might say, as I continue to inquire, it seems to me the proposals offered by the Senator from West Virginia are proposals that everyone supports. The head of homeland security, Governor Ridge, says, yes, we need to do these things. The administration says, yes, we need to do these things. The disagreement is about timing.

The issue is, should we do them sooner or later? The administration says, let's do them later. The question is, Is there risk for this country in waiting until later? Will terrorists wait until later? I do not think so. I think the American people will be better served by our deciding to make these investments now and protect this country now. The issue of sooner or later ought to be, in my judgment, resolved by this Senate in favor of sooner, taking protections sooner for the American people, taking the steps necessary to minimize the risk of terrorism.

Now, let me make one final point as I ask a question. The administration, just in the last couple of weeks, has once again indicated to the American people there is a high threat of a terrorist act, according to some reasonably credible evidence that exists. This is the third time we have heard this. I am not critical of that at all. I believe it is their obligation to inform the American people under those circumstances.

But if, in fact, it is the case that there are credible pieces of information about terrorist threats against this country that could cause great harm to the American people, isn't it also reasonable and logical, then, for us to understand the urgency of making the very changes that the Senator from West Virginia is now counseling we make with respect to homeland defense and homeland security?

I ask the Senator from West Virginia, Do you not believe that the issue here is not policy, not whether we should do these things, but the disagreement is about when they should be done, and that the administration is simply saying, we do not necessarily disagree with what you want to do, we just believe it ought to be done later? Is that the case?

(Mr. CORZINE assumed the chair.)

Mr. BYRD. That appears to be the case. And it boggles my mind to think

that while we have a perfectly logical, commonsense approach here of providing to the President the means whereby he can deal earlier, quicker, more effectively with possible terrorist attacks—we have it in a package here; it is designated "emergency;" he can use it, he can not use it—we are being asked to vote against this package. I cannot believe the President is receiving good advice. I have to believe he must be receiving some partisan political advice from somewhere down the line. It does not make sense.

Why would the President be opposed to our providing this now? We do not lose anything by it. We have everything to gain by providing this now. It is our responsibility, it is our duty, to provide for the common defense. And if this isn't common defense, I do not know what it is, if it does not fall within the category set forth in the preamble that we should provide for the general welfare. This, it seems to me, we have to do.

Mr. DORGAN. Mr. President, if I might make one additional inquiry of the Senator from West Virginia.

I want people to understand, as I know the Senator from West Virginia does, that when we have a disagreement here—which is only about the timing of when we ought to do what we should do for this country's homeland defense and homeland security—it is not a circumstance where we are confronting this President in a way that says, we are not supportive of what you are doing for America.

In fact, there is, in my judgment, general support and admiration for this President's leadership with respect to the prosecution of the war against terrorism. I think they have had a spectacular success. I indicated to Secretary Rumsfeld just a few moments ago how much I admire his service and respect what he has done. I think the President also has shown outstanding leadership in a number of these areas.

So this is not a confrontation with this President during a period of conflict. There is no disagreement about support, widespread, passionate support, for this administration and the administration's prosecution of the war on terrorism.

Mr. BYRD. Absolutely.

Mr. DORGAN. This issue is simply an issue of what kinds of investments do we believe need to be made to protect this country, what kinds of homeland security and homeland defense investments do we believe need to be made. In fact, if you read, day after day, the press accounts from Governor Ridge, and others, they will say that they agree with all of the recommendations we are now talking about.

It is unfathomable to me that we should continue, month after month, now saying we will not put any additional Customs agents on the northern border. I do not think anybody in this country can take comfort from that. Everybody understands you must provide security on our borders, you must

provide additional security on the northern border. If not, we do not have border security. If you do not have border security, you have an added risk of a terrorist being successful. That is why the timing issue here is critical.

This is just about the question of whether we ought to do what Senator BYRD is suggesting now or later. If we do not do it now, 6 months or a year from now it will be done by the administration. And God forbid some terrorist act would occur in the interim that we could have well prevented with this additional vigilance, with the resources provided in this amendment.

So I would ask the Senator from West Virginia to continue his efforts on the floor of the Senate and see that we are able to enact this amendment. I know some believe that this is confronting the President. It is not at all. It is helping this country and helping this administration do now what they say, in any event, they want to do later. It makes much more sense, it seems to me, for us to make this investment for America today.

I thank very much the Senator from West Virginia for yielding.

Mr. BYRD. Mr. President, I thank my friend.

We are not being confrontational. I have no hesitance whatsoever to be confrontational with the President of the United States or anybody else. Let the President advocate fast track; I am ready for that confrontation, and so is the distinguished Senator from North Dakota.

We are not being confrontational. We are trying to live up to our responsibility. We want to work with the President. We want to help the President. I want to help him to keep his commitment when he said on September 20, in that joint session of Congress, "Our Nation has been put on notice we are not immune from attack. We will"—not maybe—"We will take defensive measures against terrorism to protect America."

Now, Mr. President, this is what we are trying to do. We are trying to help our national leader keep his commitment, and yet there is a veto threatened—a veto—a veto. I cannot believe the President has reached this decision in his own mind—a man who, when he took the oath of office, referred to the Scriptures, referred to the good Samaritan on the road to Jericho. It gave me a new sense of confidence and trust in our President.

President Eisenhower, when he was inaugurated, prayed. He didn't call on somebody else to pray; he prayed. Eisenhower himself prayed a prayer. I was impressed and thankful. So this President has the support of the American people in the war effort. There is no question about that. The people have rallied. There is no party spirit in the rallying of the American people behind their President when it comes to the prosecution of a war overseas.

Why should they be denied the support of the administration in this effort to deal with future terrorist acts?

We are not being confrontational. We want to help the President. We are not interested in this from a political party standpoint. There is no dividing aisle here. We are dealing with the protection of the American people. When we protect the American people, we protect the military men and women who are here in this country. We protect them from terrorist acts. We protect all citizens. We protect the old, the young, the weak, the sick.

Why do we have to draw political lines in a matter of this solemn nature? This is not a Democratic proposal. This is not a Republican proposal. Safety, to the American people, has no political designation on it. We have this duty. I think we would be recreant in our duty and it would be criminal if we did not act when we know what has been said to our committees and when we know from what we read in the press that all these things are available. Yet we say, wait, wait.

I think we may be in the position of the five foolish virgins. When the bridegroom came, they had no oil in their lamps. He knocked at the door. "We have no oil in our lamps." That is what we are trying to provide here so that we will not suffer the fate of the five foolish virgins.

I thank the Senator for his observations and his contributions.

Mrs. CLINTON. Mr. President, will the Senator from West Virginia yield for an inquiry?

Mr. BYRD. I yield to the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, the Senator from West Virginia is aware of the recent rather sobering comment that our Vice President made with respect to this war, that we are fighting on two fronts, that we are likely to suffer more casualties on our homeland front than we will across the seas?

Mr. BYRD. I am aware that he said this. He said that, for the first time we are more likely to suffer casualties on the homefront than among our forces here or abroad.

Mrs. CLINTON. I thank the Senator from West Virginia for the careful attention he has given to the threats we are confronted with today. I thank the two distinguished ranking members who are in the Chamber, the Senator from Hawaii and the Senator from Alaska, for coming to New York City to go to ground zero to see what happens when our country is attacked the way we have been.

I inquire of the Senator regarding the work he has done with respect to preparing this extremely important amendment that understands our defense needs are both with our men and women in uniform, and we are all supportive of the President and our military leadership and very proud of the extraordinary work being done to root out the terrorist network, but we also have credible threats here at home.

In fact, just as a reminder, this is what war looks like when it is brought

home to our own shores. These are pictures, as the Senator from West Virginia knows so well, of the attack New York City suffered on September 11, pictures of the devastation that occurred, pictures of the men and women who are on the frontline of defense—the firefighters, the police officers, the emergency responders—who, just as our men and women in uniform, our special forces, as well as our Marines, our Navy, our Air Force, our Army forces across our country and the world, are on the front lines of defending us at home. Here is what our defenders look like in the streets of New York. They could be in the streets of any of our cities.

May I inquire if the Senator, in constructing this very thoughtful amendment that takes into account our defense needs at home, took into account, as I know he did, the extraordinary devastation and damage the city of New York has suffered because the attack on New York was an attack on America?

Mr. BYRD. Absolutely. May I say that the two distinguished Senators from New York have not once, have not twice, have not thrice, but many times talked with me about the needs, the immediate needs, of the people of New York. They have talked to me about the suffering that the people of New York have had visited upon them by this beastly attack. They have continued to implore me, as chairman of the Appropriations Committee, to help them, to help the State of New York.

The Governor of New York came down to see me also. He sat at the table in my office on the floor below and pleaded with me to provide help and succor and comfort in the form of dollars for New York City.

Mrs. CLINTON. The Senator has heard those cries for help and has, along with the committee, responded in our time of need, for which all of New York is grateful. It goes beyond that.

As we look at these pictures, as we are reminded of the devastation and destruction, we know it is going to take a long time to recover. We know that what the Senator has very thoughtfully provided in this appropriations bill will put us on the path toward recovery, will put money into the pipeline.

As the Senator knows better than anyone, it will be quite sometime into next year before another appropriation can possibly be obtained.

Mr. BYRD. It will be.

Mrs. CLINTON. Isn't it correct that it is likely to be late spring at the earliest before any additional money would flow to New York?

Mr. BYRD. The Senator is correct.

Mrs. CLINTON. As a result, because of the estimates of \$100 billion of damage, so clearly shown here in the difference of what this part of our country looked like on the morning of September 11 before the terrorists wreaked their evil on our country and what it

looked like afterwards, we know very well it is going to be a long struggle for us to recover. The fires are still burning. We need to get contracts let.

We need to repair the destruction that has been done to our streets, our highways, our infrastructure. We need to help our hospitals that were so prepared; they literally did all they could in spite of the damage they suffered. They lost their generators. They lost their billing systems. Their computers went out. But they stayed on duty. They didn't ask anyone who was brought in injured, a rescue worker who was injured on the job: Where is your insurance? You can't come in this door today because we don't know if you can pay. Everyone was brought in and given care.

What I have learned from that and what I commend the Senator for understanding is that New York City was probably better prepared than any other city in the country because of the work that had been done. Of course, the heroic efforts of our police and especially our firefighters and our emergency workers showed that preparation.

What the Senator is trying to do, as I understand it, is not only to help us with the extraordinary needs we face to get us on the path of being able to use these dollars in the way they should be used—accountably—but to get the money in the pipeline as opposed to waiting until next year.

Mr. President, the Senator from West Virginia is also telling us we have to be prepared in case this happens anywhere else in the country; is he not?

Mr. BYRD. Yes. I am also saying those tunnels that go into Penn Station in New York are traps. They were built before World War I. I am passed 84 years of age, and they were built before I discovered America. They are inadequately ventilated, they are inadequately lighted, and the escape routes are inadequate. There are 500,000 individuals who go through that station every workday. There are 750 trains. Yet how much has been appropriated to prevent another catastrophe there to rebuild the tunnels?

Yes, I know. I have heard from the Senator, and I have heard from her senior colleague. They have not been recreant in their duty. They have been very effective. As I say, the Governor of New York has been in my office. I hope he will support this package because it will help him; it will help the State of New York; it will help the people in the fire departments; in the police departments, the paramedics in New York City and other cities in New York.

We have that responsibility. I did not go to New York. I am one of the few national politicians who did not go to New York City. I did not need to go.

Mrs. CLINTON. This Senator knows very well that the Senator from West Virginia has a grasp, an understanding of what happened, not only with respect to the attacks but also the anthrax which came to New York to our

Postal Service and to our media offices as well.

Mr. BYRD. Yes, I saw it on television. I saw it on the agonized faces of wives, mothers, and fathers. The terrorists made many widows that day. The terrorists made many orphans that day. I saw it in the sweaty, grimy faces and hands of the workers, sifting through the rubble. I did not need to go. I would like to have gone, but I made the same commitment that those individuals in high places made who did go.

Now is the time to keep our commitment. I believe that a promise made is a debt unpaid, and I promised the New York Senators that I would try to help them, and I have done everything I can. I promised the New Jersey Senators, one of whom presides over this Senate at this moment with great dignity, skill, poise. I am keeping that promise. The President promised, and I am trying to help the President keep that promise.

I am not being confrontational about it. I want to help. Can we not just join hands once, one time and not be political about this and help to form a more perfect union and fulfill that phrase that is in the preamble of the Constitution?

I thank the Senator.

Mrs. CLINTON. I thank the Senator for his extraordinary efforts and his very fine work on this amendment, which will strengthen our national defense at home as well as abroad.

Mr. BYRD. I thank the Senator.

Mr. President, continuing along the line that the distinguished junior Senator from New York was pursuing, on May 10, Chief Jack Fanning of the New York City Fire Department testified before the Senate Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary on the role of the fire service in responding to terrorism.

Fanning, the officer responsible for the New York City Fire Department's hazardous materials operation, said that in preparing for terrorism, "The emphasis must be placed on the most important aspect of the equation, the first responder, and first responder team."

Mr. Fanning was talking about the people at the ground level, the people at ground zero, the people who are the first to arrive when the alarm bells ring.

Fanning said:

If lives are to be saved and suffering reduced, it will be up to them to do it.

Meaning the first responders, the first responder team.

At an incident, whatever the scale, firefighters and other responders will be there within minutes, some quite possibly becoming victims themselves.

Those were the words of Mr. Fanning. His testimony concluded with the following:

They [the first responders] will do what they have always done, act to protect the public they serve. Knowing this, let us pro-

vide them with the tools they need to perform their duties safely and effectively.

Prophetically, Fanning was among the 343 firefighters, including the city's fire chief and most of the senior staff, who died in the World Trade Center collapse. There, as it were, is the voice from the grave telling us again, do something, do it now.

The people at the local level need help. They are the people who are the first on the scene, the first to save lives, and perhaps the first to give their own lives.

Before I turn again to the chart, this is another chart which visibly displays the situation as explained by the very distinguished senior Senator from North Dakota a little earlier when he talked about the ports on the northern border being closed, and this is what the chart says: "Stop," with a big red sign.

This port is closed. Open daily at 9 a.m. Warning, \$5,000 fine for entering the United States through a closed port. Nearest open port is 70 miles east at Portal, North Dakota, on Canadian Highway 39.

There we have it. We can see the orange cones sitting around the side. My colleagues will recall the distinguished senior Senator from North Dakota said some trucks and automobiles will pull up to the sign and the driver or someone in the car or truck will get out, move the cone, and drive right on through. Or, he said, some will just press their foot on the accelerator and at the speed of 75, 80 miles an hour go right through those cones and leave them in shreds. That is the visual of the warning Senator DORGAN was speaking about.

Now let us go back. Some Senators may wish to take a look at the chart so we will set the chart in the chair in front of me.

That is what we are trying to help with. We are trying to provide live men and women at those ports of entry that presently are not covered 24 hours a day. That is what we are trying to do in this package. We are saying do it now, do not wait, do not gamble with fate.

We have already fallen behind in complying with the aviation security bill recently passed by the Congress and signed into law by the President. The Transportation Secretary said last month on November 27 that the Federal Government cannot meet the January 18 deadline that all checked baggage be screened for explosives. The new law requires that by the end of 2002 all checked luggage be screened using explosive detection systems. That would require 2,000 machines at a cost of \$2 billion, according to the Federal Aviation Administration.

We cannot wait until next year to provide these funds if our Nation's airports are to comply with the tougher airline security required under that law.

Last month, on November 3, a man carrying seven lock-blade knives, a stun gun, and a canister labeled "tear

gas/pepper spray," slipped past security screeners at Chicago's O'Hare Airport. It was a stunning breach of security. At a time of heightened scrutiny, everybody should have been looking. The would-be passenger, who had already been stripped of two knives at a prior security checkpoint, made it to the boarding gate before airline personnel in a second check discovered the other weapons. Here was a mini arsenal on two legs walking right straight for the door of the airline, and he was almost there.

These incidents follow a recent surprise inspection by the investigators from the inspector general's office of the Transportation Department and of the Federal Aviation Administration at 14 airports across the country.

In October, FAA inspector general agents found a man who passed through a metal detector at Dulles International Airport with a knife in his shoe. Now why is he carrying a knife around in his shoe?

In September, a man went through security in Atlanta and realized before boarding the plane he had a pistol in his carry-on bag.

The American people want tougher security at airports. One can see it in the half-full airplanes taking off from our airports every day. Even after grounding nearly 20 percent of their planes, airlines filled only 63 percent of their seats in October according to the Air Transport Association. So that is still 8 percent less airline traffic than in October of last year, well before the September 11 attacks.

Airports need funds to increase the visibility of law enforcement personnel for deterring, identifying, and responding to potential security threats. Additional staff persons are needed to conduct security and employee identification checks through airports. Airports with tighter budgets, particularly smaller airports in rural areas, are unable to absorb these new costs.

This package provides \$238 million to hire law enforcement personnel and improve protection for you, you who are watching through those television cameras.

I simply cannot understand the logic of opposing this package. Who would choose to allow their family to live in constant fear? What parent would repeatedly warn a child of predators on the playground and then send the child out to the park unattended and unprepared to protect himself? What is the sense in telling the people to be brave and then denying the people even the most modest, necessary protections?

Budget agreements are certainly no reason. This package bears an emergency designation. With that emergency label, this President could choose, as I have said repeatedly today, not to spend these funds if they prove to be unnecessary to spend at a given time and for a given purpose. But at least the funds would be available should the need arise. This package also contains provisions to ensure that

these funds are not counted in the baseline calculations in future years.

Get that. I am not trying to build up future budgets. I am not trying to use the funds accounted for in the baseline calculations to increase the budgets in the future years. There is no outyear growth, no multiplier effect. It is a simple, straightforward investment in protection at a time of national crisis.

To say we are willing to gamble the safety of the American public on the bet that no additional attacks will occur, that no additional vulnerabilities will surface, that no additional security precautions will have to be taken, defies common sense. It defies logic.

The President has declared we are in a state of national emergency. He did that some time ago. His administration has issued three alerts, three broad warnings of possible terrorist attacks, three alerts to the American people. We must respond to our national emergency. We must take matters in hand and guide this Nation through this time of uncertainty, this time of danger, this time of darkness.

I urge my colleagues to vote to provide the American people with basic protections at a time when the American people are most vulnerable. Forget your politics. Politics has nothing to do with this—nothing. This package fulfills our commitment to provide \$20 billion to New York in response to the September 11 attacks. I urge my colleagues to support this package.

On a statue in Atlanta, GA, are these words inscribed in memory of Senator Benjamin Hill, a great Senator, great orator: He who saves his country saves himself, saves all things, and all things saved do bless him. He who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him.

Let's vote to save our country. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2243

(Purpose: To provide for the allocation of supplemental emergency funds.)

Mr. STEVENS. Mr. President, the chairman has presented a program which is a program for the future, without any question one that reflects a substantial number of meetings that I have had with the chairman, and others, over a period of time since September 11. We have, however, a position taken by the President of the United States that he believed we had an agreement not to exceed the \$40 billion that we previously approved for supplemental money for 2002 to cover the expenditures required to initiate the recovery from the disastrous attacks in our country on September 11 of this year.

We have before the Senate section A of the committee bill, the Defense appropriations bill for 2002, that was prepared by my good friend, the chairman, DAN INOUYE of Hawaii, and me and our staffs. It has been included in the

amended version reported by the full committee that Senator BYRD has described and has been reported as we presented it, as a matter of fact.

Senator INOUYE's version of the Defense bill for next year is in section A. I do not intend to address that at all. I do, however, address the problem presented with the President's position of not wanting additional money at this time beyond the \$40 billion that he previously agreed to when he signed the supplemental we previously passed this year. To achieve that goal, I now call up amendment 2243.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2243.

Mr. STEVENS. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. STEVENS. Mr. President, let me describe, if I may, the problem we face. We are in the month of December, which is the last month of the first quarter of fiscal year 2002. When we finish this bill, however it may look after it goes to conference with the House, and then goes to the President and the President signs it, it will be approximately the end of the year. In other words, the new money in this bill will be spent in three of the quarters of the calendar year 2002.

Realizing that, I visited with my good friend, Chairman BYRD, and suggested we deal with the issues he wanted to deal with by putting additional money in the bill as money to be made available in 2003, the first quarter of 2003, which would be the last quarter of calendar year 2002. Had we done that, we would have stretched the payments over the normal four quarters of a year. I think we may have been able to solve the issue that way.

Senator BYRD said he would rather proceed with the 2002 bill. It does, I might add, have some extra points of order that could have been raised against the other approach. So he deferred on that, and we went back to the drawing board to see what we could do to deal with the problem of the President's position and the position just presented by Senator BYRD.

Let me say, basically, I believe as the future unfolds in this country, substantially all of the additional \$15 billion that Senator BYRD wants to make available will be requested by the administration. I will be surprised if they don't request more than that. The problem is, how much money should be pushed into the system now?

We had a bill before the Congress when we first reacted to the events of September 11. We were requested to present a \$10 billion supplemental. Senator BYRD and I had some meetings and

we decided that ought to go up to \$20 billion. While we were working on that, we got word that the President had gone into the Rose Garden with some people from New York and Virginia and Pennsylvania and agreed it ought to be \$40 billion. With the leadership of Senator BYRD, we charted through the quarters of the legislative process a supplemental providing \$40 billion: The first \$10 billion to be available to the President without any interference by Congress, the second \$10 billion to be available after 15 days' notice to the Congress on how the President intended to spend it, and the last \$20 billion to be available in an appropriations bill to be passed by the Congress.

This bill covers the \$20 billion, the last \$20 billion of the \$40 billion.

We have had a great many meetings, hearings, and consultations from a vast number of people in the country who believe there should be more money available now. Were I President, I think I would agree. But I am not President.

Mr. President, we are at war. We really are at war. We are in a period of time where, if we take action to challenge the President now, we could well leave an impression, I think, that we do not have bipartisan support of the President as Commander in Chief.

I have changed my position on this matter. I told my friend, the chairman of the committee, that I had. I believe we can legitimately say that the money we make available now through this bill and through the bills that are still pending here: the Labor, Health and Human Services bill, the Foreign Assistance bill—before we are through here, we will have presented to the administration \$375 billion more than is available to the Presidency right now.

The current level of expenditures by the Department of Defense, for instance, is based on the year 2000. We have increased that considerably. The amount of money available to the President for the conduct of the war, really, under the Food and Forage Act—I have to explain that. There is an old act that allows the President of the United States to spend money to pursue conduct of a war or when there are troops deployed, our troops deployed. We saw it in Kosovo; we saw it in Bosnia; we have seen it in connection with the activities of the alert in South Korea; we have seen it in many instances. This President has not used the Food and Forage Act yet, but he could use any of the money in this bill to achieve the goals Senator BYRD would achieve with \$15 billion and come to us later and say, we want the money.

In any event, beyond that, we have been told there will be—by Governor Ridge and by the President himself—there will be a request presented to Congress early next year for supplemental moneys for the year 2002, to pursue the further activities that are necessary to meet the problems of homeland defense and the problems of

recovery from the disaster of September 11.

I believe what we have to do is to look again at the \$20 billion and allocate the \$20 billion in a way to make sure there is available now enough money to handle at least the first quarter of the next year—that will be the second quarter of the fiscal year—and then some.

So what I have done, in an amendment that is now pending, is to allocate the \$20 billion in that fashion, pursuing, to a vast extent, the recommendations of Senator BYRD and his \$15 billion additional. The amendment before the Senate right now, addressing division B of the pending bill, would amend that division B to allocate the \$20 billion in this fashion: \$7.3 billion for the Department of Defense, of which we have earmarked \$2.3 billion for bioterrorism defense. I emphasize that. The Department of Defense should have a great role in the total defense of the country. I think bioterrorism is one of the key issues. I believe that is one of the key issues of Senator BYRD.

We allocate \$7.05 billion for New York. Of that, \$5.05 billion is for the FEMA disaster relief; \$290 million is for the FEMA Firefighters Grant Program; \$2 billion is for the Housing and Urban Development emergency community development block grant.

We also allocate \$5.65 billion for homeland defense. It is allocated, \$1 billion for the Department of Justice—that is for FBI, INS, and the U.S. Marshals; \$400 million more for the Department of Energy for nuclear facilities; \$256 million for the legislative branch security; \$800 million for Coast Guard and FAA security which includes \$100 million for more airport security; \$50 million for the White House security.

There is \$334 million for the Treasury. Again, the Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Customs are included in that \$334 million.

We have \$300 million for food security, \$100 million for the Justice Department general administration, Patriot Act, which is covered by Senator BYRD's proposal; \$362 million for the Bureau of Justice Assistance, \$237 million for State and local law enforcement, \$775 million for Federal antiterrorism enforcement—that is executive, nondefense, of which \$575 million is for the Postal Service, \$100 million for cyber-security, and \$100 million for increased security at public events.

We also add \$94 million for NASA and for the National Science Foundation security upgrades, and \$156 million for the EPA Counterterrorism and Anthrax Cleanup Program.

If one examines this supplemental, one finds that almost every single item mentioned by Senator BYRD is covered by our allocations. But they are lower. Admittedly, Senator BYRD had \$15 billion in two emergency sectors. We have eliminated that and moved back into the \$20 billion and allocated the \$20 bil-

lion in a way primarily reflecting, to a great extent, what the House did. It also reflects to a substantial degree what the President originally requested. And it covers basically, as I said, all of the items Senator BYRD would cover.

In the \$2.3 billion bioterrorism defense allocation, for instance, we have provided money for upgrading State and local capacities, improving hospital response capabilities, improving the CDC, starting a national pharmaceutical stockpile which includes the purchase and deployment of the smallpox vaccine that has already been purchased. That contract has already been signed.

It includes the National Institutes of Allergy and Infectious Disease at NIH, one of the signal areas that we must fund. And it has other preparedness activities.

The money for New York is committed to rebuild the infrastructure of Lower Manhattan. The FEMA disaster relief includes the \$290 million for the FEMA Firefighters Grant Program, and it will involve grants to local communities to expand and improve fire-fighting programs through the FEMA Firefighters Grant Program. Over 50 percent of the funding will go to volunteer fire departments in rural communities.

We have tracked to a great extent what my friend has done: If you look at the money for homeland defense, \$1 billion for the Justice Department more than they have now in their normal bill which has already passed, the State, Justice, Commerce bill. This adds to what they already have available, \$1 billion for coordination of information in the field of FBI—particularly the Trilogy Computer Modernization Program. And it does address the INS construction backlog to make sure we can take care of the outposts that were mentioned by Senator BYRD.

There is \$40 million for the Department of Energy nuclear facilities, which covers, again, really a downpayment on the program Senator BYRD announced in that area.

There is \$256 million for legislative branch security. Again, I know of no argument about that. There is \$800 million for the Coast Guard and FAA security. The port security hearing was held today, and this includes the port security task force creation to ensure coordination of the efforts to protect our ports. It also includes the \$100 million to add to the moneys we already made available to carry out the new requirements imposed on FAA in the airline and airport bills we have already enacted into law.

I could keep on going. It has \$300 million for food security to increase the number of food inspectors, as Senator BYRD indicated. It must be done.

But I emphasize we can put up the money Senator BYRD asked for. We can't find those people in just one quarter. The President's people are going to make some further requests. I

think what we need to do is make sure there is money to meet any of the areas outlined by Senator BYRD available now, and see what Governor Ridge and what the President want us to do to direct our attention to the future.

There is no question that the great part of the money must be directed towards antiterrorism, and antiterrorism law enforcement in particular. The Postal Service very much needs a great deal of money.

Again, I want to sidetrack. There are major issues involved in where we are going now that have to be addressed by legislative committees. For instance, the Postal Service told us they had lost over \$6 billion and they wanted assistance. When we examined it, we agreed we should provide some additional money. But we have to have some basic consideration of the question of how much of that loss should be paid by the taxpayers of the United States and how much should be borne by the rate-payers of the Postal Service, an independent entity that is not really financed by the Federal Government anymore, except in connection with disaster concepts. It may be that we will have to change that paradigm. It may be that we should help pay for some of the newer equipment that the Postal Service needs in order to prevent future disasters such as we had in the handling of the anthrax letters by Postal Service employees.

We also have to urge them to take steps to modernize so the system itself does not expose employees to contamination by substances such as that sent through the mail. We need to have an inspection system. And we need to have a system of treating the mail so it cannot carry these infectious diseases.

What I am saying is, if you examine the amendment I presented as an amendment for the Senate to speak out, and say to the administration that we have different priorities than have been presented to us before, we funded them through at least the first quarter of the calendar year 2002. We, of course, have to go to conference with the House and meet them in any event, but I think any fair reading of this amendment would say this is enough additional money through the use of the \$20 billion to meet these priorities of the Congress, and we can await the request of the President for additional money and at that time be part of the process to meet the needs of the future as the country changes.

That would be my last comment to the Senate. We have a great many problems that come from the realization we are now exposed to different types of disasters. The disaster act that is in place was primarily passed at the time when we addressed natural disasters. It is the Stafford Act.

The Stafford Act provides that the Federal taxpayer will replace facilities owned by public entities that were destroyed because of the disasters such as we saw in New York. It assists local communities in replacing streets and

docks, or whatever, in community-owned utilities, but it doesn't replace privately owned utilities. It doesn't replace privately owned facilities that went down with the public facilities. Clearly, it doesn't even cover the publicly owned building that went up 104 stories. We don't know.

We know we have to address that. That is not something we ought to address as appropriators. This should be addressed by the legislative committees in the Congress responding to legislative solutions that set the new guidelines for how we handle disasters caused by terrorism.

I say to the Senate that I think Senator BYRD has stepped forward and offered us a solution to some of those problems by funding them now. But I think the Congress should be involved in making those decisions as to what we replace.

Should we replace all of the firetrucks in the country? Should we replace only those that come in and qualify for the grants? I do not know. I pointed out in committee that we have some of the oldest firetrucks in the Nation operating in Alaska villages. They were given to those villages at the end of World War II, and they have never been able to replace them.

But the intent is to replace those facilities that were destroyed by the disaster or, because of the disaster, have become inoperable. There are a couple, by the way, that were destroyed by the fire itself.

I believe we need to have decisions on a bipartisan basis as to how to solve those problems, and to put the money up now would not solve the problem. It would create a greater problem of having stepped down the road to say we will pay it if anyone comes forward and wants a new fire engine. There is not enough money in Senator BYRD's bill to replace all the firetrucks in the country. I am sure he would agree.

On the other hand, we all agree there should be some help for communities to modernize their facilities to respond to terrorist attacks, and to respond to acts of terrorism of any kind.

I have to confess that this Senator believes the bioterrorism, cyberterrorism, and food security problems are of the highest priority. I think the great problem is we need to be able to detect substances that are currently undetectable. One physician told me we were lucky that the anthrax attack was the first attack because anthrax is detectable and it is treatable.

There are substances that we know exist out there that are not detectable, that are not treatable, and they are not curable. We need to have research to find out how we can detect them and how we can manage them once they are detected.

We started down that road in the Defense bill itself. There is \$100 million in there for the Department of Defense to continue its studies, and expand them in those two areas of detection of these

substances currently undetectable, and how to treat them once detected.

Freon disease, for instance, is one of the leading examples of that. That is the manifestation of mad cow disease in human beings. We know from the experience in Britain that it is not only undetectable, but even the people who carry it may not know it for several years before it manifests itself in the brain of a human being. Once it does, if it comes in contact with any utensils in any facility, those utensils and facilities must be destroyed. There is no way to know what portion of them are uncontaminated. You must destroy everything that comes in contact with it.

That is why much of the great disaster took place in England in the past. We should join the international effort in that regard. Our bill starts us down that line.

I have spoken longer than I intended to speak. But let me now address the problem we face.

There are people on our side of the aisle who prepared a chart of the problems that this bill faces in terms of points of order. Senator BYRD's two provisions that would add the emergency money in division C of this bill are subject to points of order. They could be waived by 60 votes. The basic bill itself that came over from the House to the Senate is subject to a point of order. The House waived that point of order. We, similarly, could waive it, or we could ignore it here.

There is also the point of order that comes out of the 1996 Budget Control Act which imposed a limit upon us of the amount of money we could spend in the year 2002. Since the year 1999, that has been waived to a certain extent, but we, through that process, came to a balanced budget. I thought we did a very good job. The balanced budget now is disappearing because of the semicollapse of our economy through the recession and our ability to recover from the terrorist acts and prevent further ones.

What I am saying right now is we have to waive the Budget Control Act; in effect, lift the caps. We have done that in section C of this bill. Senator BYRD's version puts it right in the bill. If we vote that, that lifts those caps.

But there is at least three, maybe four other points of order involved here that once we get into, if we are divided on a partisan basis—it looks as if we might be—there is no way out.

I have offered this compromise for the Senate itself to speak out and say, let us settle this now and give the administration enough money to do what we think they should do through the first part of next year. And let us come back and respond to the President's request for a supplemental when we get back here next year.

Mr. President, I am not the Parliamentarian my friend is, but I can say, from my study of this bill, there is no way out if we have a point of order and a motion to waive and that motion is not carried. It does not appear that any

of those points of order would be waived by the Senate, according to my understanding of the situation now.

My amendment takes us around those. My amendment says, let's set aside the \$15 billion. We deal with about half of it in the \$20 billion, and we move on to next year and the request from the President, and we do not have this collision. And we also—I am back where I started—do not leave the impression that a Senate that wants to provide bipartisan support to the Commander in Chief at a time of war is insisting upon doing what he says he does not want us to do.

I do not argue with my friend from West Virginia at all about the items he says must be covered sometime in connection with the recovery from this disaster. On how far we go on some of them we might have disagreement, such as firetrucks or what is covered in public facilities and what not. But the necessity for more money than the \$40 billion is now apparent to everybody, even from the comments Governor Ridge has made as head of our home defense organization.

So I say to my friend once again, I am sad to be in this position. I really am because the Senator knows—and we worked on some of these figures—I believe the needs are there. And I believe the needs will have to be met sometime in the future. But I would rather give the money now to initiate meeting those needs and determine the extent to which we will meet the needs, and which we will actually want to meet, and which we will set aside and say are the responsibility of ratepayers or local governments or States.

My friend from Hawaii and I are from the generation of which President Kennedy was a part. As I sat here this afternoon, I was thinking about his comment at his first inauguration: Ask not what your country can do for you. Ask what you can do for your country.

If the things we worry about today would be worried about by every American, if every American would really take on the job of watching for those erratic people who are part of a conspiracy plot, if every American would come forth and assist the Government, volunteer to provide help to people who need help now, our job, using the taxpayers' money, would be substantially reduced. I think that will come as we, more and more, live up to our current slogan that we stand united.

I would prefer to see the Senate stand united and adopt my amendment, move on this bill, and take it to conference. We will be in conference Monday if this amendment passes. We will still be arguing about points of order next Friday if it does not.

I hope I have offered an honorable solution to the conundrum I see the Senate facing. I plead with the Senate to act in a bipartisan way and to tell the President: There are some priorities we want you to follow. Follow them within the first \$20 billion, if you disagree with the \$15 billion that Senator BYRD

seeks—which he does; we know he does—but, meanwhile, be assured when we come back next year, we are going to make certain that the supplemental that is requested will cover the needs of the country with regard to protection against terrorism.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPENTER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I commend the Senator from Alaska for the compromise amendment which he has proposed, I commend the Senator from West Virginia for all he has done to focus attention on the important problems of the nation on homeland security, and I admire his stamina on the presentation of a very extensive floor statement.

I support and cosponsor the Stevens amendment. I divide my reasons into three categories: First, I believe there is sufficient funding to take care of the homeland security needs of America. Second, I think it is very important there be unity between the Congress and the President now as we fight the war against terrorism and have a major aspect of that war on homeland security. Third, I think it is very important the Senate act without having a stalemate and a gridlock, which is where we will be heading if we do not find a compromise, such as the compromise proposed by Senator STEVENS.

The reason there would be a deadlock is that for Senator BYRD's proposal to be adopted by the Senate, there will have to be 60 votes. I believe there is agreement there are not 60 votes present to have Senator BYRD's proposal passed by the Senate. Then the sequence which would follow would be virtually interminable.

We are facing a situation where it is now December 6. Who would have thought we would be here this late with all the expectations of finishing at least by the end of October or before Thanksgiving? However, here we are. We now face a continuing resolution which is going to run until a week from tomorrow, the 14th. Beyond that, there will be a continuing resolution until January 3, if we do not resolve this issue and the matter of the stimulus package.

These important items on homeland security should be advanced with the necessary funding on an appropriations bill, which could go through the conference and get to the President's desk next week so these important problems can be addressed.

Most fundamentally, the substitute bill proposed by Senator STEVENS provides the necessary funding. The subcommittee, which I had chaired for 6½ years and of which I am now the ranking member, has the appropriations responsibility for the Department of Health and Human Services. Senator HARKIN, who is now the chairman, and I moved ahead very promptly to address these bioterrorism threats.

Senator HARKIN and I have worked on a bipartisan basis on that sub-

committee, I think, to the benefit of the country. I found a long time ago in my Senate service, if you want to get something done in Washington, you have to be willing to cross party lines. Senator HARKIN and I have done that. We have held a series of hearings on these issues to find out what is necessary for funding on bioterrorism. We had our first hearing on October 3, our second hearing on October 23, and our third hearing on November 29.

In the hearing on October 3, the Secretary of Health and Human Services testified that he believed we were able to handle all of the problems of bioterrorism in America. He had made a statement on "60 Minutes" to that effect. A number of us raised questions—that we really were not at that point yet, and that it was not helpful to make such a statement.

Senator BYRD, who attended the hearing, in a very direct and emphatic way, threw up his arms and said, "I do not believe you." From that session we have moved ahead to push the Department of Health and Human Services to find ways to provide for antibiotics on anthrax. The Secretary signed the contract to provide Cipro. Then we had the hearing on October 23 and the issue was raised about where we stood on smallpox. The experts from the Centers for Disease Control and the National Institutes of Health said we should not be prepared to inoculate Americans, that we had 15 million smallpox vaccinations, and that those vaccinations could be diluted 5 times to 75 million.

In an exchange I had with Dr. Fauci of NIH, the discussion focused on whether it was the Government's responsibility to have sufficient vaccines so that people could make the choice themselves. I asked Dr. Fauci what the risk factor was. He said it was one to six out of a million.

I said considering that smallpox had failed, my preference would be to see my grandchildren vaccinated. Before we finished the discussion, Dr. Fauci agreed that he would like to see his grandchildren vaccinated.

The point is that as a result—I think fairly stated, as a result of this press—the Secretary of Health and Human Services has entered into contracts which will provide enough vaccines to take care of almost all of America, and not years down the line but by next September, so that we have moved ahead.

Then, in our hearing on October 3, Senator HARKIN and I pressed the Centers for Disease Control to give us a list of all the bioterrorist threats and to tell us what it would cost to meet the bioterrorist threats. And as usual, there was problems with the CDC getting clearance from HHS and getting clearance from OMB. By the time you work through the alphabet soup in Washington, it is very difficult to get anything done. However, we finally found out. When they testified on November 29, they testified in a very careful way to say that it was not an ad-

ministration request, but it was their professional judgment as to what was necessary to take care of our bioterrorist threats.

As a result of what Senator BYRD did in his questioning of Secretary Thompson and what Senator STEVENS did—even though they are the chairman and ranking member of the full committee, they attended these hearings—we have been able to push up the funding far from what the administration requested, which was \$1,445,000,000, so that we now have, under Senator STEVENS' amendment, \$2,300,000,000.

When you take the \$338 million which is now in the bill for Health and Human Services, the total funding comes to \$2,638,000,000, which I believe to be adequate.

When a group of Senators met with the President in his living quarters about 10 days ago, we had a conversation about bioterrorism. There was a discussion as to a downpayment. I made the point that we could not deal with a downpayment, that when there was talk about putting this in next year's budget, it wasn't right. Simply stated, that was too late.

I do not speak for the President. I am a Senator and work under the separation of powers. However, I had the sense that the President was sympathetic to the view, although I explicitly say he did not say so.

We are giving the President more money than he had asked for, but I believe he will sign the bill with the amendment offered by Senator STEVENS.

We face a very difficult time internationally, as everyone knows. The terrorist attack on the United States on September 11 was the most brutal, inhumane, barbaric act in human history, sending airplanes loaded with fuel as deadly missiles into the World Trade Center in New York killing thousands of people. Also, a plane crashed into the Pentagon killing more Americans, hundreds more. I believe the plane was headed to the White House. That plane's wings were perpendicular. This plane did not sink to crash into the Pentagon. That plane crashed into the Pentagon because it could not go any further. It was on a direct line for the White House.

The plane which crashed in Somerset County, PA, I believe, was headed for the United States Capitol. Senator SANTORUM and I visited the crash site, and no one will ever know for sure, but we do know from cellular phone conversations that passengers on that plane fought with the terrorists and brought down the plane.

There have been three alerts, and there is no doubt of the tremendous concern in America that there be adequate funding for homeland security. I believe the bill, the substitute which Senator STEVENS has offered, gets that job done.

There is the bioterrorism funding of \$2,300,000,000, which, when added to the existing \$338 million, brings the figure

to \$2,638,000,000. There is funding for New York, since the commitment was made by the Congress.

There is funding for the FBI, Immigration and Naturalization Service, and the U.S. Marshals Service; for security for nuclear facilities; for additional security for the legislative branch, the Coast Guard, the Federal Aviation Administration, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Customs Service; and food security; and on and on—postal security, cybersecurity programs, etc.

Right now, the President of the United States has provided much needed leadership for the free world. The President has said he will veto the bill if it has the extra \$15 billion in it. I think it would be calamitous if the Congress of the United States submitted a bill to the President in the face of that expressed veto threat, and then the President vetoed it. There is no doubt about his determination. I saw blood in his eyes when he said that to a group of visiting Senators.

It would be a sign of disunity between the President and the Congress, which would have a devastating effect on our war effort against terrorism. It simply ought not to happen. In my 21 years here, I have been party to a lot of conferences. When we have had a threat from the President for a veto, we acknowledge that there is time for compromise.

My distinguished colleague, Senator STEVENS, has given me the audible to abbreviate, so I shall do that, although there is quite a bit more I would like to say. I will conclude with a comment about the desirability of not having gridlock in the Senate.

When the stimulus package came up, it was a party-line vote. I think America is sick and tired of bickering on party lines and on partisanship. I believe that if we divide on party lines again, it will be bad for this institution and bad for the war on terrorism and bad for the funding which we need now to fight the war against bioterrorism.

It is my hope that we will find a bipartisan resolution here. I concede it is not quite as much money, but the President is the leader. He has asked for an opportunity to present to Congress the funding which he and his Director of Homeland Security believe to be adequate. The Congress has rejected the notion of waiting until next year. I believe the President will respect the accommodation, the compromise which we have made. It is my hope that we can come together.

There is legislative anarchy and legislative chaos if the Stevens compromise amendment is not enacted and if, instead, we are left to the points of order where nothing will be accomplished, and we will be returning here in January without having completed our work and without having appropriated funds necessary now. These funds can be made available next week with a bill signed by the President if

we come together on a bipartisan basis and adopt the Stevens compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my desire to start the process of having some of the votes that I have indicated must be encountered.

It would be my intention to now raise a point of order against the two emergency designations set out in division C of the committee-reported amendment as prepared by Senator BYRD.

Mr. SPECTER. Will the Senator yield for a question? Does the Senator not intend to press for a vote on the Stevens amendment first?

Mr. STEVENS. It has been requested we now proceed with the point of order and then proceed with the vote on my amendment following that, if it is possible to do so. There is still other debate to be heard, I think, on my amendment.

Mr. SPECTER. I thank the Chair.

Mr. HARKIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. SCHUMER. Will the Senator yield?

Mr. STEVENS. I will yield for a parliamentary inquiry, provided I do not lose my right to the floor to make my point of order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa seeks recognition, and the Senator from New York seeks recognition. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: The Senator would like to know exactly what the situation is at this time. This Senator has been waiting to speak on the amendment offered by Senator Stevens. What is the present situation on the floor?

The PRESIDING OFFICER. At the present time, there is a first-degree amendment offered by the Senator from Alaska to the committee substitute reported with the bill.

Mr. STEVENS. Mr. President, as I understand it, if I set that aside and make the point of order and have the vote on that, then we will come back to my amendment after that vote.

Mr. SCHUMER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Alaska yield to the Senator from New York?

Mr. STEVENS. I yield for a parliamentary inquiry.

Mr. SCHUMER. Will the good Senator from Alaska answer two questions? Are they two separate points of order or one point of order against both provisions?

Mr. STEVENS. The way my motion is worded, I am raising a point of order against the two emergency designations in division C, and I am trying to get those two issues settled at one time.

Mr. SCHUMER. I presume that point of order is debatable.

Mr. STEVENS. The motion to waive is debatable.

The PRESIDING OFFICER. The point of order is not debatable. The motion to waive is debatable.

Mr. SCHUMER. I thank the Senator.

Mr. STEVENS. I will be happy to yield to the distinguished chairman for a question.

Mr. BYRD. Might we have a quorum call?

Mr. STEVENS. May we have a quorum call and I will regain the floor when we come back?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Under that circumstance, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to yield to Senator BYRD so he might make a response to my statement on my amendment and that I regain the floor after Senator BYRD has finished his statement on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not envy myself for being in the position in which I find myself. Senator STEVENS is a Senator who can say no and make you like it—almost. He is always so gracious. I have heard a lot about his renowned temper. I have seen it at work, but he does not lose his temper. He uses his temper and is always, as I have witnessed over several decades, one of the most reasonable individuals. So I do not like to be in a position of being opposite to Senator Stevens.

While discussions are going on, let me attempt to point out some flaws of the amendment by Mr. STEVENS. The substitute amendment reduces the amount of money available to the Office of Domestic Preparedness, ODP, to \$362 million, a \$138 million reduction. That is a 39-percent reduction from the bill, as reported, for State and local law enforcement antiterrorism equipment and training.

The Office of Domestic Preparedness estimates there is currently no State that is adequately equipped to respond to an incident involving a weapon of mass destruction at the State or local level.

Texas, identified as one of the best prepared States, has conducted a study that shows that \$159 million in equipment would be needed to bring the State to the minimum level needed to adequately respond to a terrorist incident. In fact, ODP, the Office of Domestic Preparedness, estimates funds needed to bring the Nation's State and local governments up to minimum standards

could well exceed \$2 billion in fiscal year 2002 alone. Thus, the reduction proposed by the substitute amendment is equivalent to the level of funding needed to bring Texas up to minimum standards.

There are currently over 9 million first responders in the United States who would be called upon to respond to a terrorist incident. To date, the ODP has been provided with training funds that have allowed them to train only 80,000 of the 9 million first responders nationwide.

The bill as reported attempted to more than double the population trained to date. The substitute amendment's reduction in funding jeopardizes our efforts to provide the individuals on the front lines with the training necessary to protect their own lives, as well as the lives of victims.

Furthermore, the amendment by Mr. STEVENS reduces the \$300 million in the committee bill for FEMA for gathering grants by \$10 million; \$300 million in the committee bill is reduced by \$10 million.

As to Federal antiterrorism law enforcement, the substitute amendment cuts \$100 million in the homeland security bill to cover the costs of the FBI's investigation of the terrorist attacks on September 11. These funds are critical to the investigation of the attacks from September 11 and the anthrax attacks.

The substitute amendment cuts \$25 million from the homeland security bill for the FBI's Trilogy, the computer modernization program. This \$25 million will significantly accelerate the completion of Trilogy.

The September 11 attacks have exposed the vulnerability in the integration of the FBI's computer system. While FBI agents in the field are working around the clock collecting evidence and clues, their reliance on paper files leaves their work fragmented and uncoordinated. It will only be when FBI agents are linked by the Internet to one another and the universe of law enforcement agencies, that the FBI will actually know what it and others know about terrorism, espionage, or organized crime.

Without these additional funds, deployment of Trilogy may be delayed and these unacceptable problems will continue to exist.

The substitute amendment cuts \$25 million included in the Homeland Security bill for counterterrorism equipment and supplies. These funds are essential for the FBI to have the resources they need to properly investigate the terrorist attacks on September 11, 2001 and the following anthrax attacks.

With reference to Border Security the substitute amendment cuts over \$270 million in funding for the Customs Service. This will prevent Customs from hiring the necessary inspectors and agents to protect our borders.

On Monday, the Attorney General essentially called out the National Guard

to assist the Border Patrol and INS in their duties on the northern border. Treasury has not taken the same steps, yet has pulled personnel from the over-worked posts on the Southwest border to staff one-person posts on the northern border. They even eliminated funding for added inspectors on the Southwest border.

This delay places \$7.5 billion in international commerce at risk daily; \$1.3 billion of which crosses the northern border. Instead of providing additional people to protect our borders, it will continue our short-sighted reliance on orange rubber cones to stop terrorists.

The substitute amendment cuts \$300 million for INS construction that is funded in the homeland security bill even though there is an ever-growing overcrowding crisis at the INS.

For example:

Of 85 outposts across 9 sectors on the southwest border, 63 are overcrowded, some grossly so. The worst, a station in Mercedes, TX, was designed for 13 agents but currently houses 142, more than 1,000 percent its rated capacity.

In total, there are 10,150 agents working in office space designed for a capacity of 5,831 on the southern border. There are 525 agents working in office space designed for a capacity of 469 on the northern border.

The substitute amendment makes the same mistake made with the southern border over the past several years. We are building up agents—300 inspectors and 100 Border Patrol agents—but we are not providing the necessary funding to address necessary space requirements for them to do their job efficiently and professionally.

The risks to the safety of agents cannot be overemphasized and appalling work conditions will do nothing but contribute to the Border Patrol's soaring attrition rate.

This \$300,000,000 is only the beginning to truly address the enormous backlog with INS construction projects.

Now, we have heard a lot about airport security.

The bill reported by the committee included \$200 million to assist the neediest airports in meeting the costs of the dozens of new safety directives issued by the FAA since September 11. The Stevens amendment cuts that figure in half.

Senators should ask their small- and medium-sized airports whether all this money is needed. Airport revenues are dropping drastically at the same time as the airports are being required to triple their law enforcement expenditures and security personnel.

The Stevens amendment actually cuts the President's request to better secure cockpit doors by more than 20 percent.

Senators should not be confused by recent announcements that the airlines have reinforced all their aircraft. All the airlines have done to date is install a temporary metal bar and a cheap deadbolt.

The money in the President's request for FAA operations is to install the

next generation of truly impenetrable cockpit doors. The Stevens amendment cuts it by more than 20 percent.

As for the nuclear power plants, the amendment by Mr. STEVENS proposal cuts \$86 million from the \$285 million provided for enhanced protection of our Nation's nuclear weapons plants and laboratories.

The amendment by Mr. STEVENS also cuts \$131 million from the \$286 million provided for the acquisition and safeguarding of fissile nuclear material from Russia and states of the former Soviet Union.

The non-proliferation programs at the Department of Energy are the cornerstone of our Nation's effort to keep nuclear material out of the hands of terrorists.

The Stevens proposal cuts all funding—\$139 million—for enhanced security at Army Corps of Engineers owned-and-operated facilities: ports, dams, and flood control projects nationwide.

Additionally, the proposal cuts all funding—\$30,259 million—for increased security at Bureau of Reclamation facilities.

It funds only the GSA request for security of Federal buildings in New York City. It fails to provide similar security for other Federal buildings elsewhere in the country.

How about U.S. port security.

The Stevens amendment then goes further by eliminating two-thirds of the funding for marine safety teams to permanently protect our ports.

Under the Stevens amendment, there will only be one such team to protect all the ports on the East Coast and one team to protect all the ports on the West Coast.

The substitute amendment reduces funding for the port security initiative through the Maritime Administration by \$12 million.

These reductions would eliminate funding to assist local ports in their efforts to purchase security equipment such as fences, surveillance cameras, and barriers.

Effective physical security and access control in seaports is fundamental to deterring and preventing potential threats to seaport operations, and cargo shipments.

Securing entry points, open storage areas, and warehouses throughout the seaports, and controlling the movements of trucks transporting cargo through the seaport are all important requirements that should be implemented. They will not be implemented under the substitute amendment.

United States seaports conduct over 95 percent of United States overseas trade. Seaport terrorism could pose a significant threat to the ability of the United States to pursue its national security objectives.

The amendment by my friend would cut the President's request for defense programs by \$2.3 billion.

Let me say that again. The substitute amendment by Mr. Stevens

would cut the President's request for defense programs by \$2.3 billion. While the amendment has no detail, the cut would need to come from either classified programs or force protection programs designed to improve security for our forces around the world.

As to the Postal Service, my friend's amendment would cut \$300 million from the \$875 million in my proposal to sanitize the mail, protect postal employees, rebuild the facilities lost in New York City. The U.S. Postal Service identified \$1.1 billion in unfunded needs. This proposal cuts that amount in half.

My friend's amendment cuts \$29 million from the EPA for bioterrorism response and investigation teams. This would undercut EPA's ability to respond to, investigate, and clean up after acts of bioterrorism.

My friend's amendment does this. The President promised New Yorkers they would get \$20 billion to help them recover from the September 11 attacks. My amendment fulfills the President's promise. My amendment fulfills our commitment. I did not go to New York, but I saw enough on television. I did not go up there and make any promises. I stayed here and made my promise, and I am living up to that promise.

So the substitute, I am sorry to say, cuts funds for New York and other communities directly impacted by the attacks by over \$9.5 billion. Here are some examples:

FEMA disaster relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices and provides assistance to individuals for housing, burial expenses, and relocation assistance, is cut—cut—by \$8.6 billion.

And \$100 million for security in Amtrak tunnels is eliminated. Eliminated.

Funding of \$100 million for improving security in the New York and New Jersey subways is eliminated by my friend's amendment.

As to New York/New Jersey ferry improvements, \$100 million for critical expansion of interstate ferry service between New York and New Jersey is eliminated by my friend's amendment. Prior to the September 11 attacks, 67,000 daily commuters used the PATH transit service that was destroyed.

Those commuters are trying to get to our Nation's financial center in lower Manhattan. The communities in the New York region have been piecing together temporary ferry and train service using facilities that are not even safe to transport these commuters. The train riders at alternative train stops are so crowded, the police authorities are concerned with passengers being pushed off the platform onto the tracks. Yet the amendment proposed by Mr. STEVENS eliminates all this funding for transit and ferry assistance in that region.

And \$140 million is eliminated to reimburse the hospitals in New York

that provided critical care on September 11 and the weeks and months that followed.

Mr. President, \$175 million is eliminated that would help New York process workers compensation claims for the victims of the September 11 attacks.

As to Federal facilities, \$16 million is eliminated for the costs of keeping Federal agencies operating that were in the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration and the National Labor Relations Board.

Ten million dollars is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

Hear me. Hear me, Governor of New York Pataki. He came to my office. He sat down at the table across from me, and he made his plea for help. I am trying to help him. Yet \$10 million is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

The Stevens compromise is \$174.4 million less than the Senate committee bill for the District of Columbia.

I will soon close my remarks. Before doing so, let me call attention to a cut in bioterrorism activities by over \$1 billion. The amendment by my friend, Mr. STEVENS, would cut bioterrorism activities by \$1.025 billion. It would cut in half funds from \$1.15 billion to \$500 million for upgrading our State and local public health infrastructure funds, desperately needed to help upgrade State and local lab capacity, to enhance surveillance activities, support local planning for emergencies, and improve local communications systems.

Recent events have made it clear that the State and local public health departments have been allowed to deteriorate. The head of the CDC, Mr. Jeffrey Koplan, testified only last week that at least—at least—\$1 billion is needed not next spring, not next summer, not in the next supplemental, but now, immediately, to begin to upgrade our State and local health departments. That is the head of the CDC talking.

It cuts all funds provided in our proposal for the deployment of the smallpox vaccine across the country. This vaccine does no good if it is all at the CDC, with no plans for distribution if an emergency occurs.

He cuts funding for CDC capacity improvements by \$57 million. Recently the Los Angeles Times reported that four men in Georgia were discovered to have contracted the West Nile virus 3 months earlier. The delay in the diagnosis was due to the large backups at the CDC labs. This cannot continue.

The people of the Nation cry out for help. They are concerned about the

safety of their children, the safety of their wives, their mothers, their husbands, their fathers. They are concerned about the possible loss of life that might be visited upon them tonight, this very night.

So I had three goals in the committee bill. Let me repeat them.

One goal is to fully fund the President's request for defense—he would get every penny—\$21 billion for defense. Nobody can say that this impedes or impinges upon the needs for defense.

Second, my proposal fulfills the promise of \$20 billion for New York.

Also, my package responds to the vulnerabilities in our homeland defense.

Lastly—I would much prefer to be on the side of my friend than to be opposite him—my friend's substitute does not meet any of these objectives.

I yield the floor. I thank my friend for his courtesies.

AMENDMENT NO. 2243, WITHDRAWN

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I shall read and reconsider the substitute based upon the Senator's detailed objections.

I withdraw my amendment.

Pursuant to section 205 of H. Con. Res. 290, the fiscal year 2001 concurrent resolution on the budget, I raise a point of order against the two emergency designations set out in provision C of the committee-reported amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Madam President, I move to waive section 205 of H. Con. Res. 290 of the 106th Congress for the consideration of the emergency designation on page 397, and I move to waive section 205 of H. Con. Res. 290, 106th Congress, for the consideration of the emergency designation on page 398, and I ask that the motion be divided.

The PRESIDING OFFICER. The Senator has the right to divide the motion.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

This will be on the first division.

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, there has been a vote ordered on both motions to waive; is that right?

The PRESIDING OFFICER. Only the first division is pending at this time.

Mr. REID. I ask for the yeas and nays on the second.

The PRESIDING OFFICER. Is there objection?

Without objection, it is the order to so request.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that there be 60 minutes for debate with respect to the motions to waive, with the time equally divided and controlled between Senator BYRD and Senator STEVENS or their designees; that upon the use or yielding back of time, without intervening action, the Senate proceed to vote with respect to the motions to waive. I further ask unanimous consent that—I have checked with Senator BYRD on this—Senator SCHUMER and Senator CLINTON each be recognized for 5 minutes out of the time of Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I yield 5 minutes to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from West Virginia for his leadership. I know he will address the homeland security part of the debate so well, I will talk about the New York part of the debate, as I know my colleague, Senator CLINTON, will.

We are about to experience one of the most incomprehensible and inexplicably absurd moments in the entire history of this body. We are going to debate and vote upon whether what happened in New York on September 11 was an emergency. Think about it. We are debating whether what happened in New York on September 11 is an emergency. Some are saying it is not an emergency. Ask the thousands of families who lost loved ones as the Twin Towers collapsed. Ask the firefighters and police officers, emergency rescue workers who worked so valiantly, many giving their lives to rescue those in the Twin Towers. Ask the hospitals that extended themselves in ways they never had to before. Ask our mayor, a hero in America. Ask our Governor. If there was ever an emergency that affected the United States and certainly affected New York, it was this. Yet now we are debating whether this was an emergency.

New York desperately needs the money that Senator BYRD has allocated in his bill. When Senator CLINTON and I visited the White House and the President committed to help us with \$20 billion, it was an act of generosity. It was an act of understanding that you don't divide America in a time of need. It was an act that said we are all one, and when one part of America is wounded and hurt and crying, all of America comes to its aid.

The proposal by the Senator from Alaska puts less money in for New York than either the President did when he committed to us or even that the President argued for in the House bill. That is not a way to heal our country. That is not a way to restore our Nation's greatest city. That is not a fair thing to do.

Every day we learn of new needs and new hurt in New York. The amount of money proposed in this bill helps us begin to recover. It helps the families who have lost loved ones. It helps the office workers who have lost their jobs. It helps the small businesses that are about to go under because they don't have anybody there to buy their wares. It helps the large businesses that lost so much space, 20 million square feet of space. It helps us restore our transportation system so damaged.

To now say that we don't have an emergency is almost as if to say what happened on December 7, 1941, was not an emergency. What kind of world are we living in? How can we contort ourselves in a political knot and deny what is obvious to everyone on this planet, American and otherwise? In an effort to deny New York badly needed funds, we are now attempting to vote away an emergency designation.

In my years here in the Senate, I have voted for emergencies such as earthquakes and floods. I have voted for all kinds of money for such. Now an emergency has struck my city, a horrible, fiendish emergency caused by diabolical people from halfway around the globe.

America, my friends in the Senate, we need your help. We desperately need your help. Please, do not turn your back on us. Do not turn your back on us in our hour of need. Bring America together. Unite and help us heal by supporting Senator BYRD's proposal, by voting against Senator STEVENS', on its face—with all due respect—absurd proposal that New York is not in an emergency situation.

If New York and if all of America—because the attack on New York was an attack on America—ever needed you, it is now. Do not let other types of considerations get in the way.

I yield the floor.

Mr. BYRD. I yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I rise to once again remind us what an emergency looks like. I have, over the past 25 years, visited the sites of tornadoes, hurricanes, floods, earthquakes, the Oklahoma City bombing. I have never seen anything in my life like what I saw in New York City on September 11. The television and the pictures didn't do it justice. I had to see it with my own eyes on September 12.

I rise to join my colleague who has, with me and so many others, been working to recover from this, this picture of devastation and destruction. I remind my colleagues of those early

pictures of the firefighters, the police officers, and the emergency response teams coming out of the dust, the black soot that covered them from head to toe. There were a lot of very kind words spoken, a lot of applause and cheers for our soldiers on the front line at home who ran toward danger and saved countless lives.

It is hard to imagine that we are having this debate. It is especially hard when we look back, as I did, at how this body responded to the emergencies that were not man-made but naturally occurring, and what happened in Oklahoma City.

We know we are going to have a long struggle ahead to recover and rebuild. New York is taking on that obligation and challenge. But we also know we cannot do it without America's help.

This is America represented in this Chamber tonight. When New York City was attacked, America was attacked. I cannot imagine us ever turning our faces away from this. In fact, we did not. We immediately moved to appropriate money to be spent for New York. Right now, we are fighting for the emergency designation that will put that money in the pipeline, that will make it available.

Why is that important? It is important because in every disaster—there are some former Governors in this body, and I have spoken to a few of them tonight—when States were flooded, when the hurricanes came, when the tornadoes came, they wanted that money as soon as possible to begin to put it to work, to start letting the contracts, to start paying back the overtime so they did not have to run in the red, as we are having to do throughout New York.

I went back and looked at how fast money got out in other emergencies compared to the amount of money that was eventually delivered.

In the Midwest floods, within 3 to 4 months more than 40 percent of the dollars from the Federal Government had been appropriated. With the Northridge earthquake, more than 30 percent of the dollars had been appropriated within 26 days. Ninety-nine days after the Oklahoma City bombing, more than 40 percent of the money that went to help the people of Oklahoma had been appropriated. Eighty-five days after the attacks, we are fighting over whether or not what happened in New York on September 11 was an emergency.

I remember what people said in the immediate aftermath. We were given enormous support.

“We will rebuild New York City,” said President Bush on September 21.

“We will come back to New York again to see this town rise from the ashes that we saw today,” Speaker HASTERT.

“We are here to commit to the people of New York City and New York, regardless of the region of the country that we come from—and the entire

country is represented by this delegation—that we will stand with you.” Senator LOTT.

The PRESIDING OFFICER. The Senator’s time has expired.

Mrs. CLINTON. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Madam President, on behalf of not just New York—let’s not look at it abstractly as just the big State and the big city that we are. I want everyone to picture the faces of those firefighters, police officers, and emergency workers, and then I want everyone to think about the widows and the orphans. Our country was invaded, and under the Constitution, we owe, as a nation, the protection and certainly the support of this body for which we are fighting tonight. I hope that what is an emergency will be voted as such this evening.

Thank you, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, I ask for 2 minutes.

Mr. BYRD. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise as chairman of the Senate Budget Committee to point out that while our Republican colleagues are opposing \$15 billion to strengthen our defenses and to rebuild what has been destroyed in the sneak attack on this country—they argue that this will add deficits—at the very same time, they are proposing an economic stimulus package that adds \$146 billion of deficits over the Democratic stimulus plan over the next 3 years, 10 times as much in deficits in their economic stimulus plan than the \$15 billion that would be used to strengthen homeland security and to rebuild the devastation in New York. Something does not make sense.

In their stimulus package, they have \$25 billion, as the New York Times pointed out this morning, that would simply go to help the biggest corporations in America avoid taxes altogether.

They argue: No, no, go slow, the President might veto. Nobody argued go slow when we counterattacked those who attacked America. Nobody argued that we ought to go slow when the President went to New York and promised to rebuild. This is not the time to go slow in protecting America and rebuilding that which has been destroyed. This is the time to act.

The greatest irony is I was informed last week by sources within the administration that they themselves are working on a \$20 billion supplemental appropriations bill for early next year.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. CONRAD. Madam President, we should not wait. We should act.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. How much time does the Senator from New Jersey wish?

Mr. TORRICELLI. Three minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Madam President, I thank the Senator from West Virginia for yielding the time.

There are moments when we are reminded why our fathers and mothers created this Union. This is one of those moments to provide for the common defense, to promote the general welfare.

All of America was attacked, but that attack fell most directly on the peoples of several States. The President of the United States has reminded us that in this new war, we are all soldiers. If that be the case, the obligation of this Senate is to provide resources for all the police officers, all the citizens, all the workers who are on the front lines.

The Senator from West Virginia has answered that call for my State, and I believe for the national interest. Since September 11, thousands and thousands of people are unable to get to their place of employment because the trains under the Hudson River were, in some instances, destroyed; businesses had to relocate and have had enormous economic disruptions. The Appropriations Committee has provided money to repair those trains, and \$100 million for ferry service so businesses can continue to operate.

We are told that one of the greatest threats to our security in another terrorist attack is the tunnels under the Hudson River, identified as the primary threat in the country. The Appropriations Committee has provided \$100 million to repair the tunnels for safety, for fire, for escape.

We are told that one of the greatest threats, from a previous threat from the al-Qaida organization, was to attack the tunnels for automobiles and bridges. Indeed, that attempt was foiled once before, but we remain vulnerable.

The Appropriations Committee has provided \$81 million for security upgrades of the George Washington Bridge and the Lincoln Tunnel.

Finally, on this very day, we have this Senator’s testimony about the vulnerability of millions of uninspected containers coming into this country on container ships from every corner of the Earth. The Appropriations Committee has provided \$29 million for new security personnel and new boats for New York Harbor to ensure these ships are intercepted, and that these containers are inspected to assure the safety of our people.

President Bush is right. This country is at war. It is not a distant war. It may be fought in Afghanistan, but it began in New York and in Washington.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. TORRICELLI. These are the resources in a very real way, just as real as in Afghanistan to win that fight to

secure these people, and I am grateful to the Appropriations Committee for its commitment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, does the Senator from West Virginia need additional time now?

Mr. BYRD. I need some additional time. I was hoping the other side could use some of its time.

Mr. STEVENS. I will be happy to yield 10 minutes of our time to the Senator from West Virginia and shift it over to his control.

Let me briefly state the position of this Senator on the motion to waive. As I have stated, the President, as Commander in Chief in a time of war, has said he believes he has requested ample money to take him through to the time when he will submit, based on Governor Ridge’s report to him, the moneys that are necessary to conduct the homeland defense for the United States. He has also said he believes we have now sufficient funds to pursue the war that is being conducted against global terrorism based on the moneys that have been presented in section A of this bill, and the additional moneys for defense in section B of this bill.

Those moneys are presented pursuant to the act of September 14, which specified that not less than \$20 billion of the moneys involved would go to New York, Virginia, and Pennsylvania to help react to the events of September 11.

My amendment—I have withdrawn it now, but I will offer it again probably in the morning—does not change that law. Nothing in the proposal of the Senator from West Virginia changes the September 14 law, as I understand it. He seeks to add to it, but he does not change that, and that law guarantees \$20 billion.

Now, I do not have my tie on to take on the Senator from New York as I might normally. That will be tomorrow probably, but right now let me say to the Senator from New York, no one knows disasters in the United States like Alaskans. We have an earthquake about every week. We have tidal waves. We have tornados, floods. We understand emergencies.

We have not said New York did not suffer an emergency. We have merely, by this point of order, said emergency money is not needed now to meet the needs of the people affected by September 11 because with this bill, we have put up a total of \$40 billion, plus the moneys that are in the bill itself. They cannot even come near to be spent before we can get the next supplemental out.

I am informed that New York has only requested so far less than \$5 billion of the money to which it is entitled.

I do not mind being a whipping boy. You play with the cards you are dealt. My role is to try to get this bill to conference. I want the bill enacted before Christmas. I think New York is better

off to have it enacted before Christmas. I do not think it can be enacted before Christmas if we have a situation where we have a veto of this bill. I do not think we should be challenging the President of the United States.

I remember standing in this Chamber as the chairman of the committee asking for money for the former President of the United States to conduct two wars against which I voted. I have always honored the request of the President of the United States with regard to defense and emergencies, too. I remember standing in the Chamber and asking for money to replace the money that the former President of the United States used under the Food and Forage Act to conduct activities in Kosovo and Bosnia, that I opposed.

This is no precedent. This is a procedure established to assure the Congress agrees with the designation of emergency in terms of spending. We are not saying there was not an emergency on September 11. Anyone who watched the television—and I did visit ground zero. God knows there was an emergency up there and one that will be ongoing, but New York is not going to be rebuilt before March of next year. The money in this bill, the \$40 billion, cannot be spent before March of next year. There is no necessity for additional money now. There will be a necessity to respond to the President's request next spring. Therefore, I believe the motion to waive is not necessary, and I oppose it.

The PRESIDING OFFICER. Who seeks time?

Mr. BYRD. Does the other side wish to yield some time to themselves?

Mr. STEVENS. We yielded 10 minutes of our time to the Senator from West Virginia.

Mr. BYRD. I understand.

Mr. STEVENS. Does the Senator from Oklahoma seek time?

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Fourteen minutes remains for the minority; 24 for the majority.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, first I wish to compliment our colleagues for this debate, and particularly Senator STEVENS. It is not easy when one takes on the chairman of the Appropriations Committee. I have great respect for my friend and colleague from West Virginia. I do not happen to agree with him on this particular issue. I agree with him on a lot of issues. This is not one I agree with him on, and I will state why.

I have heard some colleagues imply if we do not support this, we are not in favor of New York, or we are not in favor of rebuilding, and I just totally disagree with that. I think every one of us wants to help New York, wants to help Virginia, wants to help our country, wants to provide for national security, wants to provide for a defense bill.

I am trying to look at where we are in regard to helping New York and

helping our national defense. We have to have a bill that is going to be signed by the President of the United States.

I read the President's statement of policy, and it does not equivocate. It says if the final bill presented to the President exceeds either of the agreed-upon spending levels, the President will veto the bill—the spending levels of \$686 billion that he agreed to. And I might mention he increased that spending level to get an agreement. He had an agreement with Members of Congress, Democrats, and Republicans. I might mention the Democrats in the House insisted he put it in writing. It was put in writing on October 2.

That agreement was for \$686 billion in discretionary spending. That was for a growth level of over 7 percent. The President agreed with that. Subsequent to that, the President agreed to an emergency spending bill of \$40 billion.

I might mention we were marking up the bill—I am sure my colleague from West Virginia remembers this—and the bill was \$20 billion. At one time, some people were saying maybe it should be less than that, but it was at \$20 billion. Then our colleagues from New York and the Governor and the mayor of New York prevailed upon the President to make the \$20 billion \$40 billion. So in one afternoon, in a period of hours, right before the very day we were passing the emergency assistance bill, it was \$40 billion.

That bill was passed unanimously. It was done in a bipartisan fashion. We all agreed, let us make it \$40 billion. We were basically saying let us work together on this. I questioned whether or not at that time it needed to be \$40 billion. I was saying, why do we not do \$20 billion now, and if we need another \$20 billion, we will do it? But we all agreed, let us do \$40 billion.

We had a significant discussion about how that first \$20 billion would be controlled, and we agreed basically \$10 billion at the President's discretion, the other \$10 billion the President would submit his request to the appropriators and they would sign off on it. They had 15 days to do that.

Then we said the additional \$20 billion would be subject to a separate appropriations bill, and that is what we have in the Department of Defense bill. Some people might be wondering why this is being done in the Defense bill in the first place. It did not have to be in Defense. We just said it will be in a subsequent bill. It could have been an independent bill or it could have been in an appropriations bill. So that is the \$20 billion. The President agreed with that. Both parties agreed with that, and it was passed.

That is all we have agreed on. The President says that is enough for now. The President said he is willing to make whatever considerations are needed in the future. The President's letter also said the administration spent less than 16 percent of the \$40 billion designated by Congress to respond to the September 11 attacks. Yet some

people are saying let us make the \$40 billion \$55 billion, even though we have only spent 16 percent of the original \$40 billion. I think that is moving a little aggressively, maybe a little too fast, and maybe not giving us a chance to figure out the cleanup costs.

Both Senator Stevens' bill and Senator BYRD's bill have a lot of money for FEMA. I do not know, and I do not know that anybody knows, how much FEMA is going to need for cleanup costs for Virginia and New York, but we are paying every bill that FEMA has been requested to pay.

I contacted the mayor's office in New York City and they said every single bill they have submitted to this administration has been paid within 5 days. That was from the mayor's office as recently as a few days ago. So if every bill has been paid, they are making good on their commitment.

Why not give the administration a chance to look at the total costs. Governor Ridge was appointed to be head of this task force. We give him enormous responsibility. Let him make recommendations. Then we will consider those recommendations. I am sure we will pass almost all of them. We may modify them. We have that right. To say we will preempt and move ahead, we are wasting our time. The President says he will veto it. I tell my friends, we have the vote to sustain the veto; why go through this exercise?

Finally, some have implied we are not doing anything for the victims in New York. This disaster happened September 11 and it is December 6 and we have not enacted legislation. Let me correct that. At least compare it to what we did in Oklahoma City. We had a disaster in Oklahoma City. It killed 169 people. That is not as bad as 3,000 or 4,000 but it is still pretty bad.

What did we do? For New York City, by the end of the week or hopefully by the end of next week, we will pass legislation that will say victims who were killed, their families will not have to pay any tax on income earned this year or the previous year. That is a benefit preserved primarily for the military. We will make that apply for the people who were killed as a result of the September 11 disaster. We never did that for the people in Oklahoma City 6 years ago, but we will do it in this case, and I strongly support it. Very good. That is positive.

Some of the families, the survivors of families were lobbying for that. I compliment them for that. We are going to deliver. That will be valued assistance. They will get back all the taxes they paid last year and all the taxes they paid this year. That will happen soon. They will not go through bureaucracy. That will happen. I am happy we can provide that assistance.

We have also already passed a victim's compensation fund and we have appointed a special master. The Attorney General appointed a special master who is trying to come up with an adequate compensation system for people

who lost a family member as a result of the disaster. That moved quickly. We never did that in Oklahoma City. Some people estimate they will receive large payments. I don't know. I think it has something to do with how much compensation they receive or how much they will receive from the insurance companies. That is very significant. Congress has already acted on that. Hopefully, checks will go out to the families and those in need of assistance will get that quickly.

It would be shortsighted to say we are not taking care of families. I think they have significant assistance through the Tax Code by this Congress, this year, and I think they will get something through the victim's compensation fund which Congress has already enacted. That should happen pretty quickly.

Congress has been moving. Maybe we don't move as fast as some think we should, but that is pretty quick. What about rebuilding New York City? Oklahoma City just had a dedication to rebuild the Murrah Building destroyed 6 years ago. They just had the groundbreaking today. Again, everybody is wanting to move full speed ahead, but use a little common sense. Work with Governor Ridge. Let him have some input on what is needed. Let the President of the United States have some input on what is needed. Let's work together in a bipartisan fashion to figure out what is needed, not one party saying this is what we will insist upon. Let's work together. We did it for the initial \$40 billion. I think we can do it for the future. We can do it working with the administration. It will not happen in this bill, trying to jam \$15 billion on the President, saying he will not sign it and we will sustain the veto. That will not happen.

I urge my colleagues to vote no on waiving the budget point of order. The budget point of order is well made. Let us work today. When we waive the budget, we should do it when we are working together. If we waive the budget and say budget rules don't apply, do it when we are all on the same bandwagon, when we are working together, not for partisan advantage trying to make some look as if we don't care about New York or care about fighting terrorism. That is false. Every Member serving, House and Senate, cares about New York and cares about fighting terrorism. I urge my colleagues to work together in a bipartisan fashion, work with the administration, work with Governor Ridge to come up with something mutually acceptable that will provide the Nation security and make sense economically and not break the bank at the same time.

I yield the floor and reserve the remainder of my time.

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes forty-five seconds.

Mr. BYRD. I yield 3 minutes to the Senator from Iowa and I yield 2 min-

utes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, we are talking about just another part of the defense of our country. If we think of what is happening in Afghanistan, if we found out our troops were ill-trained, that our radar was out of date, and they were short of ammunition, we would have hearings. We would call in the experts, we would listen to them, we would find out how much they needed to make sure our troops were trained, to make sure our radar worked, and to make sure they had enough ammunition, and we would supply it.

That is exactly what we did for this bill. We brought in the witnesses. We heard from the experts. We asked: What do we need to protect the people of this country in terms of a bioterrorist attack? That fell under the jurisdiction of the subcommittee which I chair. Senator SPECTER and I had four hearings. Senator STEVENS and Senator BYRD attended those hearings. We had good testimony. What they came up with was the expert judgment of what we needed to protect our people against a bioterrorist attack.

If I put it in military terms in terms of bioterrorism, our troops are ill-trained, our radar is out of date, and we don't have enough ammunition. For example, we had testimony that we needed to get our small pox vaccine manufactured and deployed. This bill includes \$829 million to do that. The substitute amendment would take that down by \$267 million. We would cut local and State public health preparedness by over \$650 million. This is our radar system. These are the people, if an attack happens, who will pick it up immediately and keep it from spreading. We had \$1.15 billion. The amendment, the substitute, only has \$500 million. There are cuts for CDC for the lab capacity. These are things we need to protect our people.

We heard from the experts. We got their testimony. We made a judgment call as to what was needed to protect us from a bioterrorist attack. We had \$3.9 billion—it was \$3.3 billion for public health and \$600 million in agriculture, for a total of \$3.9. The substitute amendment only leaves \$2.3 billion.

Just as we would not want to short-change our troops in the field overseas, we don't want to shortchange the troops we have at home. Our public health officials, our local hospital administrators, the laboratories, the manufacturers of the small pox vaccine, make sure they have the equipment they need to protect our people.

Mr. STEVENS. I ask unanimous consent the time remaining be divided 25 minutes to the Senator from West Virginia and 5 minutes to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. REED. Madam President, I rise to support the efforts of our chairman, Chairman BYRD, on an extraordinary package that recognizes the reality we have to do more, not less, and we have to do it now to respond to the issue of homeland defense.

A few weeks ago I met with my Governor and all the emergency preparedness officials in the State of Rhode Island. They have an excellent plan. They have an idea of what they can do, what they must do. They don't have the resources to do it. Time waits for no person. And if we waste this time when the crisis comes and a response is necessary, the plans won't mean anything.

This funding is critical now. It is critical to protect our preparedness infrastructure to allow first responders with appropriate equipment, with radios that communicate with all the different agencies, to be in place—not on order. We have to move now, and we have to move aggressively, and that is what the chairman has done. He has carefully weighed conflicting demands for scarce resources, and he has come up with a plan that covers the gamut of major responsibilities at the State level. We have to protect our infrastructure. We have to protect our nuclear facilities. We have to ensure that all of our State agencies and Federal agencies and not-for-profit groups, such as the Red Cross, are coordinated.

Rhode Island is one of three or four States that have a plan that has been approved and accepted by the Federal Government. They know what to do. But they would be the first to tell you, as they told me, they don't have the resources to do the job. When the crisis comes, when an attack comes, we cannot satisfy our constituents simply by saying we had a good plan. We have to be able to act. This money is necessary now. I commend and thank the chairman for his great efforts, his leadership on those resources.

If I may, I request 1 more minute.

Mr. BYRD. I yield 1 more minute.

Mr. REED. I am particularly concerned, in terms of assisting local communities, that they have these resources now because it will signal, first, that the Federal Government is committed to supporting them now; second, it will leverage State dollars. We are approaching a situation where the States are under extreme fiscal distress. Without the foundation of this Federal funding, I am very pessimistic that States will come forward.

If it is not important for us, the Federal Government charged with protection of our country, then how is it important to a State legislature to appropriate funds this coming year, in the next few months? That is another reason I believe we have to act now. We have to act promptly.

In addition, we have to be able to support the efforts of the State governments to begin to take these plans and

operationalize them—to go and actually test these plans. Frankly, we will not know the gaps until they go out and test it. This money could enable that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. REED. I yield the floor.

Mr. BYRD. I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I strongly support the leadership and initiatives of the distinguished Senator from West Virginia with regard to these issues on homeland defense.

There are so many powerful arguments that support this investment that I think our society needs to make in the protection of our communities through the bioterrorism initiative, which puts money in State and local hands, money that will make a difference to make sure we have the plans in place to really protect our people.

I live in New Jersey. We had a number of anthrax-related events in our Postal Service. We were not prepared, and the State ended up coming in and spending enormous amounts of money. It needs to be addressed now. That is why the kind of program that Senator BYRD has put together is so important.

It is a good economic policy. We need to have confidence in our society right now. This is a statement to all of the people in this country that we take these issues seriously with regard to homeland defense, whether it is from bioterrorist attacks or whether it is protecting our nuclear plants, of which we have four in New Jersey. It is absolutely essential we send out these sure and certain statements that we care.

It is good economic policy because it will stimulate our economy. We do not want to get too far away from that. This is real expenditures that will be out the door quickly.

Our States are desperately strapped, as the Senator from Rhode Island was just saying. New Jersey has a \$1.9 billion deficit in this fiscal year, the one that ends June 30. They need resources to be able to be economically sound in a tough economic environment.

It is inconceivable to me that we do not stand strong with New York City and New York State at this period of time. I have seen the two Senators make their presentations today with regard to the devastation. This is money not going to be available in the near term when the need is the greatest. We need to act. I have lived and worked in the community around New York for 30 years. The desperation, the depression that we have—in an economic and emotional context—is real. We need to send these signals. That is what this is about. It will do much along those lines.

I will be very parochial. This bill has meaningful elements in it for the State of New Jersey—those parts of New Jersey, by the way, that are linked inextricably with New York City. There is

\$100 million for ferry service, \$81 million for law enforcement. Part of that, \$34 million, is going to the State police in New Jersey. We have one boat patrolling the ports—one boat.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CORZINE. For all these various reasons, I strongly support Senator BYRD's amendment.

Mr. STEVENS. Madam President, I shall use the remainder of our time and then the Senator from West Virginia, the chairman, shall close on this motion.

I call to the attention of the Senate that the act of September 18 was specific in the sense of dealing with \$40 billion for the costs of:

... providing Federal, State and local preparedness for mitigating and responding to the attacks ... providing support to counter, investigate, or prosecute domestic or international terrorism ... providing increased transportation security ... repairing public facilities and transportation systems damaged by the attacks; and ... supporting national security.

Then it says:

Provided, That these funds may be transferred to any authorized Federal Government activity to meet the purposes of this Act.

It later specifically says:

... not less than one-half of the \$40 billion shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania, on September 11, as authorized by law. . . .

“As authorized by law,” the funds must go to Federal agencies for authorized Federal activities.

Senator BYRD's amendment—and I think we are going to have to go there sometime in the future—goes beyond this law. It goes beyond the \$40 billion and makes \$15 billion more available, and not all of it is channeled through Federal activities.

Again, I do not argue with the intent. I think he is right. Eventually we will have to do that. But for now, if we look at what my amendment has done—and we are going to modify it to a certain extent, based upon the comments of the Senator from West Virginia and the Senators from New York. No one is perfect about this. We are trying to allocate this money where it is needed within the \$40 billion and follow the existing law and authorization. The authorization for the \$20 billion we are dealing with now is in the act of September 18. But for that authorization, the whole amount would be subject to a point of order on the basis of emergency. But that emergency was declared on September 18.

We are dealing with a concept of fulfilling that. Nothing we do tonight will alter the commitment to New York and Pennsylvania and Virginia that not less than \$20 billion of the \$40 billion is dedicated to Federal activities in support of recovery in those States. Respectfully, New Jersey was not included, I am sorry to say. They probably are the beneficiary of some of the moneys that will be spent in recovering

from the New York moneys that were guaranteed. I think we probably should have included New Jersey in there on September 18, as a matter of fact.

But I urge the Senate not to declare this emergency and not to support the waiver of the budget resolution that provides for such a procedure of a point of order when the moneys exceed the amount of the budget process. We had an agreement with the President. The Senator from West Virginia and I have done our absolute best to keep the agreement with the President. I think the Senator from West Virginia will be the first to admit his \$15 billion goes beyond the concept of the rest, to which the rest of us were committed.

I hope to be here in the Chamber in March or April supporting the chairman, the Senator from West Virginia, and supporting the request of the President of the United States for additional moneys to cover many of the targets of his amendment.

I yield the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, let me thank my friend, Senator STEVENS, for being the man that he is. He is a Senator. He is a first-class Senator. He lives up to his responsibilities under the Constitution. He reveres this institution. He lives up to his promises to his fellowman. I watched him the other day in the committee and how he said no. He is a Senator who says no and does not lose respect in any way. He does not make you angry. He almost makes you like him when he says no. He is a remarkable man. In this debate, he has given me much of his time. He did the right thing. He offered to let me close the debate on my motion. I could close the debate, but he offered it. I didn't have to fight for it.

Madam President, I thank my friend. Let me say this: No matter what the outcome, Senator STEVENS will always be my friend. I will not think less of him for his opposition. I will think more of him for the way he has conducted himself. We have two Medal of Honor winners in this body, as far as I am concerned: DANNY INOUE; and, although TED STEVENS hasn't formally been presented with such a medal, from me he gets one also. I love him. There is a friend who walketh closer to a brother. And TED STEVENS is one who does that.

On November 8, President Bush addressed the Nation. In his remarks, the President asked the American people for courage. He asked them for vigilance, for volunteerism, and for adherence to time-honored values. He called upon them to carry on with their lives. He told them that they had new responsibilities. He asked for their help in fighting this new war on terrorism here at home.

I have no quarrel with many of the things which the President said. But the first responsibility of any government is to protect the safety of its citizens. How can we ask our people to

shoulder new responsibilities to fight the war against terror, unless this Government first lives up to its most basic duty—ensuring the safety of our citizens on our own soil.

Ask those men in Afghanistan: How would you vote on this amendment? Would you vote to give the people back home the security that this amendment provides to them? How would they vote? I have no doubt that a great majority of them would vote for this amendment. They are thinking of their loved ones back here, too, who might any day be subjected to a terrorism attack. Would they take the position, well, let them wait until the spring? Let them wait for the supplemental? How laughable that is.

This Government must take positive, proactive steps right now to shore up our homeland. If we are all to become citizen soldiers here at home, let us make sure that we provide those homeland soldiers with at least a front line of defense. I am talking about protecting our airports; screening baggage and passengers thoroughly; protecting mass transit; protecting rail service; guarding our ports; patrolling our nuclear power plants, dams, bridges; guarding chemical plants, food suppliers, water supplies; protecting malls, and stadiums. If 911 taught us anything, it taught us that we are vulnerable in hundreds of ways. It taught us that the unthinkable is not only thinkable—it has happened. We are totally derelict in our duties as public servants if we learn nothing—take no real action—as a result of the horrific experiences of September 11.

On November 8, the President's remarks were the classic call to public service. "Ask what you can do for your country" was its rhetorical theme. And I applauded him. And while I have no problem with those sentiments, and hope that they do inspire more of our people to service and unselfish action, I think that we should all be aware that the ground has shifted under us. The battleground is no longer just on some distant shore in Afghanistan, it is in New York, Florida, Pennsylvania, California, Washington—indeed anywhere in this great land. I think that the American people now have a right to ask their country what it can do for their safety.

Anthrax has turned up in our mail. Where is the massive effort to be sure that we can sanitize our mail for that threat?

I have received 12 letters from my constituents since those Twin Towers went down—12 letters I have received. My staff has been evacuated from the southeast corner of the Hart Building. What about the people out there? What about their safety? What about my wife's safety when she goes to the mailbox? My daughter, your daughter, his daughter, think of them.

The Postmaster General has been told by this administration that he will only get \$175 million for equipment to sanitize mail. He needs at least \$1 bil-

lion even to begin. Whether the anthrax scare was homegrown or the work of madmen in other lands makes no difference. Poisoned mail poses a new threat to our people and we need to find ways to deal with making mail safe to handle and safe to receive.

Smallpox could be a devastating blow to this nation, and indeed to the world, should some madman find a way to unleash its horror on an unsuspecting population. Yet, where is the massive effort to develop a safe vaccine?

We need billions to combat this and other bioterrorism threats.

We need a commitment to improve our health care facilities—to train personnel to deal with widespread diseases and panic. Especially in rural areas, there is next to no frontline of defense against such bioterrorism attacks. We are like children in the dark being asked to be brave in the face of an enemy we cannot see, and whose actions we cannot predict, and with no ammunition forthcoming from a federal government to which we all pay taxes. What better use of the tax dollar than to protect our citizens as well as we can from the scourge of terrorists who have already killed thousands of Americans. We fail our people and we fail them grossly if we do not do all we can to keep them safe in their own beds. No volunteer effort can do that. No tax break can do that. Only a strong Federal commitment from the government can have any hope of success for such a massive and important task.

States will be in the frontline of any homeland defense effort, yet the states are in severe financial difficulty. Four out of five states are sliding into or are in a recession, and state revenues are suffering accordingly. Moreover many of the tax cuts in the House-passed stimulus bill would serve to rob states of the very revenues they need at this time.

An October survey by the National Conference of State Legislatures revealed that almost every state is experiencing revenue shortfalls. Forty-three states and the District of Columbia now report that revenues were below forecasted levels in the opening months of FY 2002. At least 36 states have implemented or are considering budget cuts or holdbacks to address fiscal problems. Twenty-two states have implemented belt-tightening measures that include hiring freezes, capital project cancellations and travel restrictions. Six states have convened in special sessions to address budget problems, and several others are considering special sessions later this year or early next year. Yet, we put more on them. We ask them for more.

How can we expect States in such shape to mount a frontline defense for our people if the Federal Government does not help with additional moneys dedicated to that cause? That is not just a rhetorical question. The failure to respond may have real and disastrous consequences.

We all may cheer the victory in Afghanistan when it finally comes, and we may all breathe a little easier if bin Laden is caught, but we dare not forget that the bin Laden organization has branches in 60 countries. They are here in the United States. They are cunning. They are organized, as we have so painfully learned.

Yet there is opposition to the moneys to beef up the computer capabilities of the FBI, the Immigration and Naturalization Service, and the Bureau of Customs—all agencies charged with monitoring the people and goods which come over our borders or for tracking down terrorists once they get here.

In short, there has been plenty of lip service paid to homeland security, but talk is much cheaper than a Federal funding commitment. And while it is fine to lift spirits, it is not enough. It is essential to dedicate funding to protect entities most vulnerable to terrorist attacks.

Madam President, we have been sent a horrific message. We have awakened with a start. We have suffered bad dreams. Yes, we have suffered nightmares. We have awakened, as I say, with a start. But we dare not return to our slumber. We dare not let our concentration wane and our attention wander. We will not be safer as a nation than we were on September 10, if we do not use the lessons that we have learned to make us stronger now. We will be just as unprepared the next time, God forbid, and it will be the fault of this Government and its complacency. Issuing terrorism alerts is no substitute for taking real action that we know can help minimize the threats.

So I plead with my colleagues to support this package which is intended to make our people safer and more confident. It is not a package which divides Americans. It is not a proposal that pits the rich against the poor or corporations against working people. It is a program for the safety of all Americans. It is something Democrats and Republicans can do together for our people. There should be no aisle separation here. It can change the tone in Washington by promoting unity among elected leaders. We can come together for the benefit of every man, woman and child in this Nation. We can improve the climate of fear which is troubling our people and hurting our economy. There is no partisanship—no partisanship—in homeland security. It is our solemn duty. And anyone who was living in this country on September 11 knows deep in their heart that we had better start to do something now.

Madam President, I am already at the beginning of my 85th year. I have seen wars and depressions and natural disasters of huge proportions. Always, Madam President, always we have had leadership that acted quickly to protect America and her people. Now we are faced with perhaps the most dangerous threat that we have ever faced—

terrorists on our own soil. Terrorist cells in more than 60 countries in this world; terrorists plotting right now—right tonight; while we sleep, they will be plotting; plotting right now—the next attempt to kill massive numbers of innocent people.

I do not want to stand on this floor after the next terrible attack and say to my colleagues, “We should have acted sooner. We might have saved lives.” None of us want that on our conscience. We can act now. We can do all that we can right now to “promote the common defense.” Let us not wait. Let us not give bin Laden more time. Let us not hew to the party line so closely that we sacrifice the safety of our people.

The White House pulled out all stops today in the effort on behalf of the legislation that has been given the name of: promote trade security. It is fast track—fast track. And I cannot reconcile what I seem to see: an administration that says, give me fast track, an administration that says, no, but slow down when it comes to providing money for homeland defense; slow down there but give me fast track on trade legislation.

We must not go home, Madam President, without doing something to ward off what could be another tragedy of major proportions. I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us to the Senate.

I have been around here so many years, and I have seen so many things. I have seen disasters. And never have I voted against any State that came here needing help from the Federal Government in the face of disaster. I have never turned my back on any State.

And I could go down the list: Texas, \$1.090 billion for Tropical Storm Allison—\$452 million in 2001, including emergency funding in the fiscal year 2002 VA-HUD bill—and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes.

I have a list that I will not take the time—and I do not have the time—to read. I have a list of disasters that have occurred, and a list of responses by the Appropriations Committees of the Congress in helping the people who were suffering from those disasters. I ask unanimous consent to have that printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BYRD. Now, Madam President, how much time do I have?

The PRESIDING OFFICER. Twenty-one seconds.

Mr. BYRD. Madam President, I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us here.

Have we become so cynical that we cannot even do that? Are we so insensitive that we would rather embrace the cold illogic of budget deals than face

our duty to ease the palpable fear in this Nation? I hope not. For if that is so, we have failed this Nation at its most critical hour. That is not the Senate I know. That is not the Senate to which I have given most of my life. Once again, I ask Senators to turn away from the sterile illogic of this misguided point of order and come together to protect our homeland and our people.

I thank all Senators. And I thank Mr. STEVENS in particular. I thank him.

EXHIBIT NO. 1

APPROPRIATIONS COMMITTEE TRADITION FOR RESPONDING TO NATURAL DISASTERS FY 1989-2001

The Senate Appropriations Committee has a long, bi-partisan tradition for responding to natural and man made disasters. Why Members are now resisting using the emergency authority for homeland defense and to fulfill the \$20 billion commitment to New York boggles the mind.

FEMA Disaster Relief funding for major disasters over the last 11 years follow:

TEXAS: \$1.090 Billion for Tropical Storm Allison (\$452 million in 2001, including emergency funding in the FY 2002 VA/HUD bill) and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes;

MISSISSIPPI: \$238.8 Million for such disasters as Hurricane George, Tropical Storm Allison, severe storms, flooding and tornadoes. Emergency funding was also provided through CDBG for Hurricane George;

OKLAHOMA: \$374.6 million total, including \$37 million of emergency funding for Oklahoma City in response to the Murrah Building bombing and \$183 million for a severe winter ice storm last January;

NORTH CAROLINA: \$1.47 billion since 1989 for disasters such as Hurricane Floyd (\$706 million), Hurricane Fran (\$547 million) and Hurricane Bonnie (\$38 million);

ALASKA: \$113.4 Million since 1989 for such disasters as the Red Fox Fire, the Tok River Fire, the Appel Mountain Fire, and numerous severe storms and flooding;

PENNSYLVANIA: \$424.8 Million since 1989 for such disasters as Tropical Storm Allison, Tropical Storm Dennis, Hurricane Floyd, and other severe storms, flooding, and tornadoes;

NEW MEXICO: \$39.5 Million since 1989 for such disasters as forest fires in 2000, the Hondo Fire in 1996, the Osha Canyon Complex fire in 1998, as well as numerous severe winter storms and flooding. Significant emergency funding was provided in response to the Ciera Grande fires;

MISSOURI: \$344.6 Million since 1989 for such severe storms and flooding, grass fires, tornadoes and hail storm damage, including the Midwest floods.

KENTUCKY: \$243.4 Million since 1989 for severe storms, flooding, mudslides, and wildfires. Over \$132 million in 1997 alone for flooding and tornado damage;

MONTANA: \$66 Million since 1989 for fire damage in Flathead Lake, Lincoln, Sanders, Gatalin Park, as well as severe storms, flooding, ice jams, and severe winter storm damage;

ALABAMA: \$332.3 Million since 1989 for damage caused by Hurricane George in 1998 (\$57.8 million), Hurricane Opal in 1995 (\$52.7 million), ice storms, fires in Russelville, Chelsea, Fayette and Lookout Mountain;

NEW HAMPSHIRE: \$38 Million since 1989 for damage caused by Tropical Storm Floyd in 1999, Hurricane Bob in 1991, blizzards, high winds and record snowfall damage, and severe ice storms and flooding;

IDAHO: \$65.8 Million since 1989 for severe storms, flooding, mud slides, and wildfires.

The PRESIDING OFFICER. The Senator's time has expired.

All time has expired.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Which division will be the subject of the first vote?

The PRESIDING OFFICER. Division I.

Mr. STEVENS. Homeland defense. Thank you.

The PRESIDING OFFICER. The question occurs on division I of the motion to waive section 205 of H. Con. Res. 290 of the 106th Congress. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—50

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carnahan	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—48

Allard	Enzi	Murkowski
Allen	Feingold	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith (NH)
Campbell	Hatch	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—2

Gramm Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the emergency designation is stricken.

The question now occurs on agreeing to division II of the motion to waive section 250 of H. Con. Res. 290 of the 106th Congress.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—50

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carnahan	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—48

Allard	Enzi	Murkowski
Allen	Feingold	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith (NH)
Campbell	Hatch	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—2

Gramm	Helms
-------	-------

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the emergency designation is stricken.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SENATOR THURMOND'S 99TH BIRTHDAY

Mr. BYRD. Madam President, with great pleasure, I belatedly wish the happiest of birthdays to the senior Senator from South Carolina. It was 99 years ago yesterday that STROM THURMOND was born in Edgefield, SC.

Ninety-nine years old, what a feat that makes him old enough to be my big brother!

When he was born, December 5, 1902, the Wright brothers had not yet made their historic flight at Kitty Hawk. He has lived to see men walking on the Moon and American space vessels exploring the far reaches of our galaxy.

When he was born, Theodore Roosevelt was President of the United States. Since then we have had 16 more Presidents.

When he was born, the Kaiser still ruled in Germany. Since then, that country has seen the rise and fall of the Weimar Republic, the rise and fall of Nazi Germany, a divided Germany, and now a united Germany.

When he was born, the Czar still ruled in Russia. Since then, that country has experienced the Russian Revolution, the Bolshevik government, the Communist government, the Soviet empire, and now Russia again.

Almost as intriguing has been the extraordinary career of our remarkable colleague. During the same time period, he has been a teacher, an athletic coach, an educational administrator, a lawyer, a state legislator, and a circuit court judge.

He won his first elective office, County Superintendent, the same year that Herbert Hoover won his first elective office, 1928. He was a soldier in World War II, where he took part in the D-Day invasion of Normandy. He was a presidential nominee in 1948 and the governor of his beloved State of South Carolina from 1947 to 1951. He has been a Democrat, a Dixiecrat, and a Republican. Most of all he is a great American.

All of this would have been more than enough experiences and achievements in one lifetime for most mortals. But, incredibly, STROM THURMOND's greatest days were still ahead of him.

In 1954, he won his first election to the U.S. Senate as a write-in candidate—making him the only person in history to be elected to the Senate as a write-in candidate. He has now become the longest-serving Senator in history, and the oldest person ever to have served in the Senate.

But it is more than longevity that has made STROM THURMOND an extraordinary Senator. As chairman of the Senate Armed Services Committee and chairman of the Senate Judiciary Committee, he has fought for a stronger military to keep our country free, and he has fought for tougher anti-crime laws to make our streets safer. As President pro tempore of the Senate, he brought dignity, style, and a southern refinement to this important position.

For these and other achievements, he has had high schools, state and federal buildings, as well as streets, dams, and town squares named in his honor. A few years ago (1991), the Senate designated room S-238 here in the U.S. Capitol as the “Strom Thurmond Room” “in recognition of the selfless and dedicated

service” that he has “provided . . . to our Nation and its people.”

On this, his 99th birthday, I wish to say what a privilege and an honor it has been to have served with this remarkable man for all these years.

He has always been an outstanding legislator, a Southern gentleman, and foremost, a good and dear friend.

Happy birthday, Senator. God Bless you.

#### CONFIRMATION OF LARRY HICKS

Mr. REID. Madam President, every Member of the United States Senate should be grateful for the hard work that Chairman LEAHY and the entire Judiciary Committee have exhibited in an effort to move judicial nominations forward as quickly as possible.

Even under the most extraordinary of circumstances, Chairman LEAHY has moved forward in a reasonable and timely fashion.

In the aftermath of the September 11 terrorist attacks, Chairman LEAHY spearheaded legislation through the Judiciary Committee that will provide our law enforcement agencies with the necessary tools to provide homeland security while at the same time protecting our most cherished civil liberties.

The Senate Judiciary Committee and its Members were also forced to endure a lengthy closure of its committee room and office space as a result of the anthrax-laced letter that was sent to Majority Leader TOM DASCHLE's Hart Senate Office.

Yet Chairman LEAHY and the Senate Judiciary Committee persevered.

They even approached the distinguished Chairman of the Senate Appropriations Committee and asked his permission to hold a hearing on judicial nominations in the Committee's historic conference room in the Capitol.

I attended that hearing in support of the nomination of Larry Hicks, of Reno, to be the next Judge on the United States District Court for the District of Nevada.

Larry Hicks is currently a partner in the Reno law firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks.

The Chairman of the litigation section, Larry has been with the firm since 1979.

He has extensive trial court, appellate court and settlement experience, having served as a settlement judge since 1998 for the Nevada Supreme Court.

Larry is also admitted to practice in all State and Federal courts of the State of Nevada, the Circuit Court of Appeals for the Ninth Circuit and the United States Supreme Court.

Prior to his private practice, Larry served the people of Northern Nevada for 11 years in the Office of the Washoe County District Attorney.

In 1975, he was elected District Attorney of Washoe County.

Larry received his undergraduate degree from the University of Nevada in