

words, and I yield to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, what I am trying to get at is to not be at the same place next year that we are now. Last year we were trying to get a little money for research, but we were trying to focus some attention so we would do more. Where I see the problem is that we are actually spending less than we did 2 years ago, that we have reasonable proposals from the Department of Defense for doing something about it, and now I am back here hearing that here is \$5 million for a pilot project and we will have a study and come back next year.

Mr. MURTHA. Wait a minute. The gentleman says it is a little project. This is a project you are advocating. This is not a little project. It is a project you are advocating. It is \$5 million.

Mr. BLUMENAUER. I wanted to explain what I hope to accomplish. My goal is to be in a situation where we can actually make some significant progress for expenditures to solve the problem, not to continue to study it or to do tests.

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I appreciate the courtesy that has been offered by the Chair and ranking member to try to help out for 5 million. I am trying to respond to this question about what I am trying to achieve. I do not want to be back here next year and see the funding level going down, the cost going up, needs unmet, and people looking at me like it is hard to understand what I am trying to achieve. That is what I am trying to do.

Mr. MURTHA. We want to help.

Mr. BLUMENAUER. Mr. Chairman, I will seek to work with the committee, but my ironclad commitment is to help make sure that there is a way that we focus on the floor so we are not back here with another study and a pilot project, no increase in funding and a problem that continues to get worse year after year after year.

Mr. CASE. Mr. Chairman, I rise today in support of the amendments offered by my distinguished colleague, the gentleman from Oregon, Mr. BLUMENAUER, relative to unexploded ordnance. I completely agree with the underlying assertion of his amendments that our country is failing its obligation to clean up unexploded ordnance (UXO) throughout our states and in fact, throughout the world.

My own Hawai'i is a classic example. Our military has made extensive use of my state for military training and preparedness for at least a century, and we in Hawai'i accept that use as an obligation that we owe to our country.

However, according to the Department of Defense's FY2002 Defense Environmental Restoration Program Annual Report to Congress, today there remain throughout Hawai'i over fifty Department of Defense-registered locations that have not been cleaned up, presenting ongoing public safety risks. These include 10 separate sites at Lualualei Naval Magazine on the Waianae Coast, one ten acre

site at the Pacific Missile Range Facility at Barking Sands on the island of Kaua'i, five sites at Marine Corps Base Hawai'i at Kaneohe Bay, four sites on the island of Lana'i, and many smaller locations throughout the state. I can only believe that there are a number of other states in the same situation.

Let me take the specific example of the military's past use of a large portion of the Island of Hawai'i in and around the current residential communities of Waimea and Waikoloa. During and after World War II, the United States military, primarily the Navy and Marine Corps, utilized an area of approximately 123,000 acres on the western side of the Island of Hawai'i as an artillery range, military training cap, and general military grounds. This former Waikoloa Maneuver/Nansay Combat Range lies in and around the Coast resort area, and remains littered with related debris including UXO. This UXO has already resulted in civilian deaths and injuries and represents a continuing threat to residents and visitors and renders large portions of the area effectively unusable.

In 1992, the United States Army Corps of Engineers determined that the site was eligible for the Defense Environmental Restoration Program for designation as a Formerly Used Defense Site (FUDS). In 2002, the Corps completed an engineering evaluation/cost analysis which designated the entire site for potential ordnance health and safety risk and estimated total cleanup at an excess of \$600,000,000.

Of that amount, the Corps analysis estimated cleanup costs for the three highest areas of potential risk, in and immediately adjacent to existing and pending residential communities at \$250,000,000. A comprehensive plan for utilization of such funds to those purposes requested by the Senate Armed Services Committee (SASC Report 107-151), completed, and submitted to the Secretary of the Army. Same amounts have been expended and other have been allocated in effectuation of that plan, but much less of the \$250,000,000 estimate and far short then the estimated costs of total cleanup in excess of \$600,000,000.

On April 12, 2004, I met with official from the United States Army Corps of Engineers on the Big Island of Hawai'i. At that meeting, I was given an update on the Corps of Engineers' ongoing efforts to clear high priority sites within the Waikoloa Maneuver Area. A small project now underway has begun to clear UXO around Waikoloa Village and Waimea Town—two relatively populated areas on the Big Island. This cleanup project is located in an area that was once used as a military training cap and artillery range.

Both on and off the record, I have heard many excuses about the reasons we cannot fund UXO: the war, the deficit, the President's tax cuts. But, these excuses and past Congressional and Executive mishandling of the UXO issue are no excuse for the country—for this Congress—to ignore a concept espoused by parents, coaches and camp counselors alike: Leave any place you visited cleaner than when you arrived. The Army Corps of Engineers is ready and willing to begin the process of cleanup; it is now up to all of us in Congress to appropriate the funds for this much-needed action.

Mr. Chairman, our military needs places where they can train fully to protect our country, but when they've completed their mission

it's only right that they clean up and assure that those of us that come after them can use the land safely. These amendments offered by the gentleman from Oregon are an essential first step towards cleaning up the many communities which are littered with UXO. I urge their adoption by the House.

Mr. BLUMENAUER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The Committee will rise informally to receive a message from the President.

The SPEAKER pro tempore (Mr. SIMPSON) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

The Committee resumed its sitting.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 33, line 19, after the dollar amount insert the following: "(reduced by \$10,000,000)".

Page 35, lines 20 and 21, after the dollar amounts insert the following: "(increased by \$10,000,000)".

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, to the chairman of the subcommittee, first of all, let me add my appreciation as well for the years of service that we can count on Members with his kind of commitment to do their very best, and we thank him very much. As usual as well, let me add my appreciation to the gentleman from Pennsylvania (Mr. MURTHA), who has not only been both committed and dedicated with his expertise but has been forthright in some of the very difficult times that we have faced over the last 2 years.

9/11 changed America. It changed the way we wage wars. It changed the way we dealt with conflicts. And as we have seen over the last 2 years, it seemed the number of service personnel that we have utilized in conflicts in Afghanistan and Iraq in particular. Over the last year, we have seen a number of statistics that frighten and concern us.

One, the question and debate about whether or not we need more personnel both in Afghanistan and Iraq, continuing debate about whether we should have a draft or continue in the volunteer army as we have, the continuing debate about Reservists and National Guard.

But one thing glares very loudly, and that is the high degree of suicides in the war of Iraq, the terrible tragedies that have occurred in some of our Reservists or returning soldiers who have come home.

Mr. MURTHA. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we know she has been at the forefront of this issue. We know that so many service people have been affected by the fact they have been overseas, and then they come home, and in the bill last year we said when they come home, each person has to be counseled. We found that they have not been counseled. The gentlewoman from Connecticut (Ms. DELAURO) has some language, which the chairman accepted, in mental health and the same type of thing. What the gentlewoman is trying to do we agree with completely. If the gentlewoman will withdraw her amendment, we will do everything we can to make sure this gets done.

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, let me thank him very much.

As I was saying, the number of suicides and the number of family incidences that have occurred by our Reservists and others indicate, Mr. Chairman, that this need for mental health services is very important. I would only say that representing a veterans hospital, I can assure him that the need for increased dollars there be to treat veterans is important. I would look forward then to working with him on the mental health resources. I appreciate the language that has been put on the gentlewoman from Connecticut (Ms. DELAURO).

As a Chair of the Children's Caucus, let me say that we have dealt with mental health issues. What greater population is impacted than families? Women and children were impacted by this when returning. Soldiers come home, and might I say women, men, and children because, as we know, men and women come home from the conflict.

I would like to be able to withdraw this amendment with the understanding, of course, and working with the chairman on this idea that mental health is part of defense, mental health for our personnel is part of defense, and I hope that we will be able to work on adding new resources for that.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 33, line 19, insert after the dollar amount the following: "(reduced by \$10,000,000)".

Page 129, line 7, insert after the dollar amount the following: "(increased by \$10,000,000)".

Ms. JACKSON-LEE of Texas. Mr. Chairman, this issue speaks particularly to comments made earlier on the floor today, and I again add my appreciation to the chairman of the Defense Subcommittee of the Committee on Appropriations and as well the ranking member, and I add my appreciation to the Foreign Operations, Export Financing and Related Programs Subcommittee. All of them worked very hard on this issue, and that is of course the terrible tragedy that is going on in Darfur in Sudan. We do know that right now there are negotiations and a final peace treaty dealing with the western part of Sudan. There are negotiations and settlement going on in Kenya. But we also recognize those of us who are concerned on human rights and the needs of children around the world of the terrible tragedy and displacement of the black Muslims in the Sudan.

Four hundred thousand moving to Chad; some 30,000 a day dying. We appreciate the \$95 million that has been placed in this defense bill, but let me add why I would like to add the extra \$10 million.

We know that the Sudan is also where al Qaeda is both lodged and festering. We also know that Sudan is a country that has faced terrorism and has the elements of terrorists engaged or placed in their country. While we try to establish humanitarian needs, I think it is important that when we place humanitarian needs and resources there, we help fight the terrorists. I want to make sure that we have the necessary funds to the very penny to allow for the equipment to come in that is necessary for potable water, for the villages that have been pillaged and burned to be rebuilt, for the security forces to be there.

This is a crisis, and it is interesting to note that while we are settling one aspect, we are in the crises in the eastern part of Sudan. That is what these resources are for, and I would hope that my colleagues will look favorably on an additional increase of dollars that would take from the resources on the missile defense, which is extremely hard and large, to help quell terrorism by going into the homesite of al Qaeda and working with those who are trying to survive and trying to restore their lives.

Mr. MURTHA. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we certainly appreciate what she is saying.

We will take a look at it in conference, and I hope that the gentlewoman will withdraw this amendment, but we will certainly take a look at it.

I see exactly what she is talking about and we have that problem. Sometimes we put humanitarian aid, and we do not have the resources to get it to the people who really need it, and al Qaeda and the terrorists actually use the money to their benefit. So I appreciate what she is saying, and we will certainly take a look at this in conference.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for his response.

Reclaiming my time, as the chairman well knows, Sudan has been a hosting place for terrorists, but we are trying to help solve that problem in Darfur, and I want to make sure that we have all the resources we need.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, we had quite a discussion in the full committee regarding this matter. The problem in Sudan is very real, and we are going to do everything we can to work with the gentlewoman. I appreciate not just her expressing her concern but helping us with this very serious difficulty.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank both the chairman and the ranking member for their comments.

I also want to make mention my greatest appreciation for the Foreign Operations, Export Financing and Related Programs Subcommittee and note that the Members that were already mentioned on the floor of the House have worked on this issue. I add my appreciation with that and being able to work with the conference committee, recognizing that all is not well in Sudan, all is not well with the government, and nothing is perfect, but that if we can be one small measure of fighting against terrorism but helping innocent people, we should do so. With that, and working with the conference committee and the ranking member and the chairman, I will withdraw this amendment.

Mr. Chairman, I rise today to introduce an amendment calling for an extra \$10,000,000 in funds to be provided to the "International Disaster and Famine Assistance" Account. I request this increase for one simple reason, I feel we need more funds set aside for potential international catastrophes or famines. Although the current allocation of \$70,000,000 is noble, I feel more can and should be done.

We as a nation are blessed with many gifts and attributes. We live in a safe and stable environment where freedom is cherished. We as Americans are immensely fortunate to live where we do. But we must not take for granted all the wonderful things provided for us. We must not forget that there are others in this world that are not as fortunate as we are. There are others in this world that do not live in a society of peace and security. We must be cognizant of those who are less fortunate.

I feel that we, as the most advanced nation in the world, have some sort of obligation to help those around us who have fallen on hard times. At certain times a nation or a region faces such disastrous circumstances that it is unable to provide its citizens the means to survive. In times such as this we have an absolute obligation to lend a helping hand and alleviate the pain and suffering of these peoples. And this is the very obligation that the "International Disaster and Famine Relief" account was set up to fulfill. And I repeat, I do praise this account.

Unfortunately, I feel the current allocation of funding might not be sufficient to accomplish our goal. I fear that if the current crises in Chad and Sudan do not improve, or worsen, the current level of funding might not be able to handle another large scale crisis development. We must increase funding for this account so that we are able to support the crises in Sudan, Chad, and other unforeseen events.

My amendment would pay for this increase by decreasing funds from the Research, Development, Test and Evaluation Defense-Wide account by the equal amount, offsetting all expenses. Opponents of my amendment will argue that I am tapping into our Military's vital Research and Development funds and weakening our future national defense and security. They will argue that we must make every effort to ensure that our military has the newest, most effective technology in the world. And I agree with them in principle.

We as a nation must ensure our survival, through diplomacy, through economic force, and if necessary through military might. But we must also prioritize our spending. My amendment will take \$10,000,000 out of the account that funds research as the Star Wars program. It is in my opinion that our money is much better spent alleviating international disaster and famines than research a program such as Star Wars that shows almost no chance of success. We have a choice; help alleviate famine in the world or fund nonsensical research programs that will amount to no more than a waste of money. My amendment would help to ensure that we have plenty of resources to help alleviate international disaster and famines. Please support the Jackson-Lee amendment.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

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, \$309,135,000, to remain available for obligation until September 30, 2006.

TITLE V

REVOLVING AND MANAGEMENT FUNDS
DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,174,210,000.

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), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$1,186,626,000, 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, \$17,959,186,000, of which \$17,148,069,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2006; of which \$364,635,000, to remain available for obligation until September 30, 2007, shall be for Procurement; and of which \$446,482,000, to remain available for obligation until September 30, 2006, shall be for Research, development, test and evaluation: *Provided*, That notwithstanding any other provision of law, of the amount made available under this heading for Operation and maintenance, \$11,000,000 shall remain available until expended, and shall be available only for deposit into the Army Fisher House Non-Appropriated Fund Instrumentality and shall be used in support and upkeep of existing Fisher Houses managed by the Army: *Provided further*, That notwithstanding any other provision of law, of the amount made available under this heading for Research, development, test and evaluation, not less than \$10,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations: *Provided further*, That Title VI of the Department of Defense Appropriations Act, 2004, in the appropriation for the Defense Health Program, is amended by adding before the period a comma and the following: "and of which not less than \$4,250,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations".

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, \$1,371,990,000, of which \$1,138,801,000 shall be for Operation and maintenance to remain available until September 30, 2006; \$78,980,000 shall be for Procurement to remain available until September 30, 2007; \$154,209,000 shall be for Research, development, test and evaluation to remain available until September 30, 2006; and no less than \$137,404,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which \$44,631,000 shall be for activities on military installations and \$92,773,000 shall be to assist State and local governments.

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, \$876,697,000: *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, \$193,562,000, of which \$191,362,000 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 \$2,100,000, to remain available until September 30, 2007, shall be for Procurement; and of which \$100,000, to remain available until September 30, 2006, shall be for Research, development, test and evaluation.

TITLE VII

RELATED AGENCIES

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, \$239,400,000.

INTELLIGENCE COMMUNITY MANAGEMENT
ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$309,644,000, of which \$26,953,000 for the Advanced Research and Development Committee shall remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, \$46,100,000 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, 2007 and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2006: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

NATIONAL SECURITY EDUCATION TRUST FUND

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

GENERAL PROVISIONS

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 \$3,000,000,000 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 June 30, 2005: *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(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: *Pro-*

vided 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: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

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

Lightweight 155mm Howitzer.

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 as required by section 401(d) of title 10, United States Code: *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 2005, 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 2006 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2006 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 2006.

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

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

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 reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—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 unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) \$10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) This section and subsections (a), (b), and (c) of section 2461 of title 10, United States Code, shall not apply to a commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) 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

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the De-

partment of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(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. 2302 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 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. Notwithstanding any other provision of law, during the current fiscal year and hereafter, 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 subsequent fiscal years 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. 8019. 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. 8020. 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. 8021. 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 prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) 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) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding 41 U.S.C. 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): *Provided further*, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85-536, as amended, shall have the same status as other program participants under section 602 of Public Law 100-656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. 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 30 months after initiation of such study for a multi-function activity.

SEC. 8023. 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. 8024. Hereafter, 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. 8025. 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 responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8026. 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 2350j(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.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8027. (a) Of the funds made available in this Act, not less than \$24,822,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) \$21,722,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) \$2,300,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) \$800,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8028. (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

2005 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 2005, not more than 6,600 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That this subsection shall not apply to staff years funded in the National Foreign Intelligence Program (NFIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2006 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 \$40,000,000.

SEC. 8029. 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. 8030. 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. 8031. 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. 8032. (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 2005. 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. 8033. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, 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. 8034. Amounts deposited during the current fiscal year and hereafter to the special account established under 40 U.S.C. 572(b)(5)(A) 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. 572(b)(5)(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. 8035. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8036. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8037. 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. 8038. (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. 8039. 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 \$250,000.

SEC. 8040. (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 Business 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 2006 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2006 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 2006 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. 8041. 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, 2006: *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: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2006.

SEC. 8042. 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 de-

ployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8043. Of the funds appropriated to 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. 8044. (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. 8045. 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. 8046. (a) Except as provided in subsection (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. 8047. 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.

(RESCISSIONS)

SEC. 8048. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

“Former Soviet Union Threat Reduction, 2003/2005”, \$50,000,000;

“Aircraft Procurement, Navy, 2004/2006”, \$2,900,000;

“Shipbuilding and Conversion, Navy, 2004/2008”, \$10,300,000;

“Other Procurement, Navy, 2004/2006”, \$5,200,000;

“Other Procurement, Air Force, 2004/2006”, \$100,000,000;

“Procurement, Defense-Wide, 2004/2006” \$23,400,000;

“Research, Development, Test and Evaluation, Army, 2004/2005”, \$42,650,000;

“Research, Development, Test and Evaluation, Navy, 2004/2005”, \$20,000,000;

“Research, Development, Test and Evaluation, Air Force, 2004/2005”, \$37,000,000; and

“Research, Development, Test and Evaluation, Defense-Wide, 2004/2005”, \$108,300,000.

SEC. 8049. 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. 8050. 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. 8051. During the current fiscal year and hereafter, 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. 8052. 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. 8053. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2004 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8054. 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. 8055. (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. 8056. Appropriations available under the heading "Operation and Maintenance, Defense-Wide" for the current fiscal year and hereafter 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. 8057. None of the funds appropriated by 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. 8058. 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. 8059. 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. 8060. 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. 8061. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8062. (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. 8063. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, for the current fiscal year and hereafter 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. 8064. 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.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8065. 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. 8066. 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. 8067. Hereafter, funds appropriated for Operation and maintenance and for the Defense Health Program in this Act, and in future appropriations acts for the Department of Defense, for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, 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. 8068. (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. 8069. 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. 8070. 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. 8071. 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. 8072. (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. 8073. (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. 8074. 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(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))).

SEC. 8075. 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. 8076. 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. 8077. 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, the planned acquisition and transition strategy 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. 8078. The Secretary of Defense shall provide a classified quarterly report, beginning December 15, 2004, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8079. During the current fiscal year and hereafter, 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, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8080. (a) REGISTERING FINANCIAL MANAGEMENT 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 financial management 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. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than \$1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies,

with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) 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).

(C) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production 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.

(d) 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).

SEC. 8081. 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. 8082. None of the funds provided in this Act may be used to transfer to any non-governmental 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 Depart-

ment 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. 8083. 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. 8084. 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. 8085. 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. 8086. Of the amounts appropriated in this Act under the heading, "Research, Development, Test and Evaluation, Defense-Wide", \$60,000,000 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. 8087. 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 2005.

SEC. 8088. In addition to amounts provided elsewhere in this Act, \$2,000,000 is hereby appropriated for "Defense Health Program", to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8089. Amounts appropriated in title II of this Act are hereby reduced by \$300,000,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

- (1) From "Operation and Maintenance, Army", \$66,700,000;
- (2) From "Operation and Maintenance, Navy", \$77,900,000;
- (3) From "Operation and Maintenance, Marine Corps", \$6,100,000; and
- (4) From "Operation and Maintenance, Air Force", \$149,300,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8090. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", \$87,290,000 shall be available for the Arrow missile defense program, of which \$25,000,000 shall be for producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

SEC. 8091. Notwithstanding any other provision of law, of the amounts provided in this Act and in Public Law 108-87 under the heading "Research, Development, Test and Evaluation, Navy", \$1,500,000, and \$500,000, respectively, shall be available for a grant (or grants) to the California Central Coast Research Partnership (C3RP) through the California Polytechnic State University Foundation, for costs related to Office of Naval Research agreements: *Provided*, That the Secretary of the Navy shall make said grant (or grants) within 90 days of the enactment of this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8092. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", \$484,390,000 shall be available until September 30, 2005, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of Defense shall transfer such funds to the following appropriations in the amount 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, 1996/05":
 - LPD-17 Amphibious Transport Dock Ship Program, \$55,000,000.
 - Under the heading, "Shipbuilding and Conversion, Navy, 1999/05":
 - New SSN, \$10,000,000;
 - LPD-17 Amphibious Transport Dock Ship Program, \$38,100,000.
 - Under the heading, "Shipbuilding and Conversion, Navy, 2000/05":
 - DDG-51 Destroyer Program, \$44,963,000;
 - LPD-17 Amphibious Transport Dock Ship Program, \$171,681,000.
 - Under the heading, "Shipbuilding and Conversion, Navy, 2001/05":
 - DDG-51 Destroyer Program, \$83,316,000;
 - New SSN, \$67,330,000.
 - Under the heading, "Shipbuilding and Conversion, Navy, 2002/05":
 - LAC SLEP, \$2,100,000.
 - Under the heading, "Shipbuilding and Conversion, Navy, 2003/05":

LCAC SLEP, \$11,900,000:

Provided further, That Section 126 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1410; 10 U.S.C. 7291 note) is repealed.

SEC. 8093. 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 U.S.S. 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. 8094. Notwithstanding any other provision of law or regulation, the Secretary of Defense may hereafter exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8095. 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) during fiscal year 2005 until the enactment of the Intelligence Authorization Act for fiscal year 2005.

SEC. 8096. The total amount appropriated in title IV of this Act is hereby reduced by \$270,000,000 to reduce cost growth in information technology development and modernization, to be derived as follows:

(1) From "Research, Development, Test and Evaluation, Army", \$60,000,000;

(2) From "Research, Development, Test and Evaluation, Navy", \$29,000,000;

(3) From "Research, Development, Test and Evaluation, Air Force", \$72,000,000; and

(4) From "Research, Development, Test and Evaluation, Defense-Wide", \$109,000,000.

SEC. 8097. None of the funds in this Act may be used to initiate a new start program without prior notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8098. The amounts appropriated in title II of this Act are hereby reduced by \$316,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From "Operation and Maintenance, Navy", \$150,000,000.

(2) From "Operation and Maintenance, Air Force", \$166,000,000.

SEC. 8099. (a) In addition to the amounts provided elsewhere in this Act, the amount of \$6,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of \$6,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a non-profit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Co-operation Act of 1978 (29 U.S.C. 175a note).

SEC. 8100. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming

plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS-C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: *Provided*, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS-C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS-C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams to be fielded no later than fiscal year 2009.

SEC. 8101. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, \$6,600,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2005: *Provided*, That the Secretary of Defense shall make grants in the amount of \$2,100,000 to the Intrepid Sea-Air-Space Foundation; \$2,500,000 to the Presidio Trust only for renovations of the parade field; and \$2,000,000 to the Fort Ticonderoga Association.

SEC. 8102. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Account": *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8103. 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 fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8104. The budget of the President for fiscal year 2006 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32 (as defined in the Department of Defense Financial Management Reg-

ulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8105. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8106. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", \$20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8107. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8108. (a) LAND CONVEYANCES, NORTON AIR FORCE BASE, CALIFORNIA.—(1) FOREST SERVICE CONVEYANCE.—Subject to paragraph (2), the Secretary of Agriculture shall convey to the Inland Valley Development Agency all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3.74 acres designated as parcel D-1 (including the former Air Force S-2 Headquarters Building) on the former Norton Air Force Base, California.

(2) As consideration for the transfer under paragraph (1), the Inland Valley Development Agency shall execute a long-term ground lease with the Secretary of Agriculture, upon terms acceptable to the Federal Aviation Administration, to provide the United States Forest Service with a replacement parcel of land of approximately 7.5 acres at the San Bernardino International Airport adjacent to current facilities of the Forest Service to be used for aeronautical purposes in furtherance of wildfire prevention and containment.

(b) AIR FORCE CONVEYANCE.—(1) Subject to paragraph (2), the Secretary of the Air Force shall convey to the Inland Valley Development Agency all right, title, and interest of the United States in and to certain parcels of real property, including improvements thereon, located on or adjacent to the former Norton Air Force Base, California, that as of the date of the enactment of this Act have been determined through a record of decision to be eligible to be transferred to, or held in trust for, the San Manuel Band of Mission Indians.

(2) The Secretary of the Air Force shall make a conveyance under paragraph (1) with respect to any parcel of real property to which that paragraph applies only upon delivery to the Secretary of an instrument executed by the San Manuel Band of Mission Indians that releases and extinguishes any real property interest of the San Manuel Band of Mission Indians in that parcel of real property.

SEC. 8109. (a) The total amount appropriated or otherwise made available in titles III and IV of this Act is hereby reduced by \$345,000,000 to reflect savings from revised economic assumptions, to be distributed as follows:

"Title III", \$189,000,000; and

"Title IV", \$156,000,000.

(b) The Secretary of Defense shall allocate this reduction proportionately to each program, project, and activity within each applicable appropriation account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. (a) The amount appropriated in title II for "Operation and Maintenance, Air Force" is hereby reduced by \$967,200,000 to reflect cash balance and rate stabilization adjustments in the Department of Defense Transportation Working Capital Fund.

(b) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall transfer \$967,200,000 from the Department of Defense Transportation Working Capital Fund to "Operation and Maintenance, Air Force" to offset the reduction made by subsection (a). The transfer required by this subsection is in addition to any other transfer authority provided to the Department of Defense.

SEC. 8111. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order 12333.

SEC. 8112. Section 8149(b) of the Department of Defense Appropriations Act, 2003 (Public Law 107-248; 10 U.S.C. 2784 note), shall remain in effect for fiscal year 2005.

SEC. 8113. Amounts appropriated in this Act may be used by the Department of Defense for the purchase of heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations applicable to the purchase of passenger carrying vehicles under section 1343 of title 31, United States Code, or any other provision of law: *Provided*, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

SEC. 8114. Of the amount appropriated under the heading "Operation and Maintenance, Marine Corps" for the Marine Corps Air-Ground Task Force Training Center, Twenty Nine Palms, California, \$4,500,000 shall be available to the Secretary of the Navy to enter into a contract, notwithstanding any other provision of law, for the widening of Adobe Road, which is used by members of the Marine Corps stationed at the installation and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

SEC. 8115. In addition to amounts appropriated or otherwise made available in this Act, there is hereby appropriated \$3,000,000, for "Operation and Maintenance, Marine Corps": *Provided*, That the Secretary of the Navy shall make a grant in that amount to the "Hi-Desert Memorial Health Care District", Joshua Tree, California, for the purposes of providing a capability for non-invasive assessment, diagnostic testing and treatment in support of service personnel and their families stationed at the Marine Corps Air-Ground Task Force Training Center.

SEC. 8116. (a) LAND CONVEYANCE, ARMY RESERVE TRAINING CENTER, WOOSTER, OHIO.—The Secretary of the Army may convey, without consideration, to the City of Wooster, Ohio, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that

is located at 1676 Portage Road, Wooster, Ohio, and contains a former Army Reserve Training Center.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City of Wooster, Ohio.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8117. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under Section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8118. The Secretary of the Navy may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed \$100,000,000 under the authority provided by this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committee on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8119. The amounts appropriated in title II of this Act are hereby reduced by \$100,000,000 to reflect savings attributable to the offsetting of payments to contractors for the collection, pursuant to law, of unpaid taxes owed to the United States, as follows:

- (1) From "Operation and Maintenance, Army", \$22,000,000.
- (2) From "Operation and Maintenance, Navy", \$26,000,000.
- (3) From "Operation and Maintenance, Marine Corps", \$2,000,000.
- (4) From "Operation and Maintenance, Air Force", \$50,000,000.

SEC. 8120. The total amount appropriated in title IV is hereby reduced by \$685,000,000 to decrease amounts budgeted in anticipation of the application of non-statutory funding set asides: *Provided*, That this reduction shall be allocated proportionately to each budgeted program, program element, project, and activity: *Provided further*, That funds made available for programs of the National Foreign Intelligence Program (NFIP) are exempt from the application of this provision.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8121. TANKER REPLACEMENT TRANSFER FUND.—In addition to funds made available elsewhere in this Act, there is hereby appropriated \$100,000,000, to remain available until transferred: *Provided*, That these funds are

appropriated to the "Tanker Replacement Transfer Fund" (referred to as "the Fund" elsewhere in this section), which is hereby established in the Treasury: *Provided further*, That the Secretary of the Air Force may transfer amounts in the Fund to "Operation and Maintenance, Air Force", "Aircraft Procurement, Air Force", and "Research, Development, Test and Evaluation, Air Force", only for the purposes of proceeding with a KC-767 tanker acquisition program: *Provided further*, That these funds may be made available to implement the provisions of section 117 of the House-passed version of H.R. 4200 (108th Congress), the National Defense Authorization Act for Fiscal Year 2005: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary of the Air Force shall, not fewer than 15 days prior to making transfers using funds provided in this section, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

SEC. 8122. None of the funds appropriated or otherwise made available by this Act may be used to amend or cancel, or implement any amendment or cancellation of, Department of Defense Directive 1344.7, "Personal Commercial Solicitation on DoD Installations", until after the end of the one-year period beginning on the date on which the report containing the results of the investigation regarding insurance premium allotment processing, which is underway as of the date of the enactment of this Act, is submitted to the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code), the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 115, line 17 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to that section of the bill?

AMENDMENTS OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer a managers' amendment, and I ask unanimous consent it be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. LEWIS of California:

On page 115, insert the following new section at the end of title VIII:

"SEC. _____. The Secretary of Defense shall provide a report to the congressional defense committees not later than July 30, 2004, that addresses how the Department of Defense (DoD) is improving the dud rate of cluster munitions to meet existing DoD policies.

This report shall address: (1) the types and quantities of munitions systems that employ cluster munitions presently in DoD's inventory that do and do not meet the 1-percent dud rate policy; (2) DoD efforts to ensure the development of cluster munitions that meet the 1-percent dud rate policy, including a list of programs funded in fiscal year 2005; and (3) a schedule describing the DoD cluster munitions inventory profile from the present until the time this inventory will meet the 1-percent dud rate policy."

On page 118, line 3, strike the comma after "Provided" and insert a comma after "further".

On page 122, line 10, add a comma after the word "further".

On page 134, line 4, insert before "not less" the following:

"the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate".

On page 138, insert the following two new sections at the end of title IX:

"SEC. _____. From within funds made available in chapter 1 of this title, the Secretary of Defense shall use such funds as necessary to provide to Congress, not later than 4 months after the date of the enactment of this Act, a list of all contracts entered into by the Department of Defense for the provision of security, translation, and interrogation services in Iraq, Afghanistan, or Guantanamo Bay, and the amount of each such contract.

SEC. _____. None of the funds made available in chapter 1 of this title may be used to fund any contract in contravention of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6))."

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the amendments being considered en bloc?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

Mr. MURTHA. Mr. Chairman, we have no problem with the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. LEWIS).

The amendments were agreed to.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

TITLE IX—ADDITIONAL
APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY
MILITARY PERSONNEL
MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", \$2,552,200,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", \$232,200,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", \$273,200,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", \$874,400,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", \$11,698,400,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", \$303,000,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", \$1,295,000,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by

H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", \$744,000,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", \$295,000,000: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", \$2,978,000,000, to remain available for transfer until September 30, 2006, for the purposes authorized under this heading in Public Law 108-11: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: *Provided further*, That of the amounts provided under this heading, not less than \$1,978,000,000 shall be for classified programs, which shall be in addition to amounts provided for elsewhere in this title, and under this heading: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *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 Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount

is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

PROCUREMENT

MISSILE PROCUREMENT, ARMY

For an additional amount for “Missile Procurement, Army”, \$42,800,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further* That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$201,900,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$330,000,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$1,151,400,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$34,000,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$112,800,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$111,400,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$35,300,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$80,000,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for “National Guard and Reserve Equipment”, \$100,000,000, to remain available until September 30, 2007: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$1,250,000,000: *Pro-*

vided, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$305,000,000 for Operation and maintenance: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

CHAPTER 2

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs” for costs associated with United States Mission operations, technological support, logistical support, and necessary security costs in Iraq, \$665,300,000, to remain available until expended: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance” for interim facilities for the United States Mission in Iraq, \$20,000,000, to remain available until expended: *Provided*, That, if the enactment of this title occurs during fiscal year 2004, such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That, if the enactment of this title occurs during fiscal year 2005, such amount is designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

CHAPTER 3

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for “International Disaster and Famine Assistance”, \$70,000,000, to remain available until September 30, 2005: *Provided*, That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad: *Provided*

further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress).

DEPARTMENT OF STATE
MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", \$25,000,000, to remain available until September 30, 2005: *Provided*, That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad: *Provided further*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress).

GENERAL PROVISIONS, TITLE IX

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2005, unless otherwise so provided in this title: *Provided*, That notwithstanding any other provision of law or of this Act, funds in this title are available for obligation, and authorities in this title shall apply, upon enactment of this Act.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. (a) Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to \$2,000,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

(b) Section 8005 of the Department of Defense Appropriations Act, 2004 (Public Law 108-87; 117 Stat. 1071), is amended—

(1) by striking "\$2,100,000,000" and inserting in lieu thereof "\$3,000,000,000"; and

(2) by striking all after the third proviso and inserting the following: "": *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section."

(c) Section 168(a) of division H of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 456), is repealed upon enactment of this Act.

(d)(1) If the enactment of this title occurs during fiscal year 2004, the amounts made available by the transfer of funds in or pursuant to this section are designated as emergency requirements pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress).

(2) If the enactment of this title occurs during fiscal year 2005, such amounts are designated as making appropriations for overseas contingency operations pursuant to section 403 of such S. Con. Res. 95.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, 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).

SEC. 9005. None of the funds provided in this title may be used to finance programs or

activities denied by Congress in fiscal year 2005 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 9006. Sections 1318 and 1319 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11; 117 Stat. 571), shall remain in effect during fiscal year 2005.

SEC. 9007. From October 1, 2004, through September 30, 2005, (a) the rates of pay authorized by section 310(a) of title 37, United States Code, shall be \$225; and (b) the rates of pay authorized by section 427(a)(1) of title 37, United States Code, shall be \$250.

SEC. 9008. Notwithstanding any other provision of law, from funds made available in this title to the Department of Defense for operation and maintenance, not to exceed \$500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip, and provide related assistance to military or security forces in Iraq and Afghanistan, to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: *Provided*, That such assistance may include the provision of equipment, supplies, services, training and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees not less than 15 days before providing assistance under the authority of this section.

SEC. 9009. From funds made available in this title to the Department of Defense for operation and maintenance, not to exceed \$300,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding the source of funds and the allocation and use of funds made available pursuant to the authority provided in this section.

SEC. 9010. Section 202(b) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7532(b)) is amended by striking "\$450,000,000" and inserting in lieu thereof "\$650,000,000".

SEC. 9011. Funds available to the Department of Defense for operation and maintenance in this title may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9012. (a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

(b) Each report shall include the following information:

(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended

for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

(2) An assessment of the progress made toward preventing attacks on United States personnel.

(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12304 of title 10, United States Code.

(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12304 of title 10, United States Code, the following information:

(A) The unit.

(B) The projected date of return of the unit to its home station.

(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.

SEC. 9013. Authorities contained in sections 402, 407, and 605 of division B of Public Law 108-199 shall also apply to amounts provided in this title for the Department of State.

SEC. 9014. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

SEC. 9015. The President shall provide to the Congress a report detailing the estimated costs over the period from fiscal year 2006 to 2011 of Operation Iraqi Freedom and Operation Enduring Freedom, or any related military operations in and around Iraq and Afghanistan, and the estimated costs of reconstruction, internal security, and related economic support to Iraq and Afghanistan: *Provided*, That the President may waive the requirement to submit this report only if the President certifies in writing to the Congress that estimates of these future military and economic support costs cannot be provided for purposes of national security: *Provided further*, That the report referenced above shall be submitted no later than October 1, 2004.

SEC. 9016. Section 3101 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) The United States Government shall take all steps necessary to guarantee the full faith and credit of the Government."

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through Page 138, Line 11 be considered as read, printed in the

RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to that portion of the bill?

AMENDMENT OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. INSLEE:

At the end of the bill, add the following new title:

TITLE X—ADDITIONAL GENERAL PROVISIONS

SEC. 10001. None of the funds appropriated by this Act may be used to waive or modify regulations promulgated under chapter 43, 71, 75, or 77 of title 5, United States Code.

Mr. INSLEE. Mr. Chairman, this amendment addresses the clear American values of making sure that the 700,000 men and women who are so ably performing their duties today as part of our war against terrorism as civilian employees at the Department of Defense retain their American rights of collective bargaining, their American rights of due process, their American rights of an appeal if they have been abused on the job, their American rights to be treated based on merit in the performance of their jobs rather than on politics and patronage.

□ 1615

Our amendment, quite simply, assures that no money will be spent in this bill to deprive them of those statutorily guaranteed rights that we have built up on a bipartisan basis over the last several decades. This will assure that that scaffolding that provides those 700,000 Americans with that protection will not be stripped away.

Why is this important? This issue became paramount to me when I welcomed the USS Vincent back from the Afghan theater. The gentleman from Washington (Mr. DICKS) and I helicoptered out to it, it was quite an experience as she came back in the Straits of Juan de Fuca, and we talked to the sailors on board.

The sailors told us they had launched and recovered I think over 10,000 sorties and had not lost a pilot, and that the reason they had done that had been because of the exquisitely professional performance of a lot of people who are of those 700,000 civilian employees of the Department of Defense, and particularly those of the Puget Sound Naval Shipyard. The sailors, the people who were out in harm's way within firing range, told me not to forget the people who were on the defense team in the civilian sector of the Department of Defense.

Unfortunately, unless this amendment passes, those 700,000 patriots stand in the fire line of losing their collective bargaining rights, losing their right to an appeal, losing their right to due process and losing their right to

have their performance judged on their merit.

This happened because, unfortunately, during our rush to get the defense authorization bill through, there was a provision in good faith that was inserted that gave largely unfettered discretion to the Department of Defense to go forth and create a new personnel system.

We are always open to reform and new ideas, but, unfortunately, what has transpired at the first cut by the Department of Defense, they have proposed plans that would essentially gut the real basic, fundamental right to collective bargaining in our system, a collective bargaining system that actually has been successful in maintaining the morale of these 700,000 patriots who are instrumental in our defense efforts today.

What we have seen are proposals to essentially gut that by allowing the Department of Defense to unilaterally sort of jam down the throats of those 700,000 people whatever they decide to do without collaboration and without collective bargaining. That would be a mistake. It would be a mistake in not recognizing the American value of collective bargaining, and it would be a mistake to damage the morale of this workforce, and we are urging my colleagues not to allow that.

Secondly, we do not want to allow what I consider to be a real civil right, and that is a right that when you are on the job working for the DOD, if you are going to be sanctioned, if you are going to be fired, if you are going to be sent down to the bilge as punishment, you ought to have some basic due process rights. You ought to have it in writing what you did wrong, you ought to have a right to a written decision on your appeal, even you ought to have a right to have an appeal, if I dare say, where you have a lawyer present when your job is on the line.

Those civil rights are in jeopardy if we do not pass this amendment, and the 700,000 people who care about that know those rights are in jeopardy.

We have already developed a very successful appeals system to handle this issue. Why should we go forth and create a whole new system to be a duplication of our existing system? It is not necessary.

I would like to answer four kind of suggestions why this amendment is necessary. Some of my colleagues have suggested this is not a good idea. They have had four critiques. I would like to answer those during this debate.

First, it has been suggested that the 700,000 employees that are going to be protected by my amendment do not want to be protected by my amendment. Not a well-put argument, when virtually every union that is elected by these employees wholeheartedly supports my amendment, the Association of Government Employees, the Federation of Teachers.

By the way, teachers, it was said they are sort of un-American, they

cannot form a union unless my amendment passes. That does not make any sense at all. Teachers ought to be able to form unions. So the employees think this is a good idea.

Second, this will allow consideration of alternatives; it simply will not allow the pulling of the trigger. DOD will be able to aim, they will be able to load up, but they will not be able to pull the trigger on this until we look at this issue.

The CHAIRMAN. The time of the gentleman from Washington (Mr. INSLEE) has expired.

(By unanimous consent, Mr. INSLEE was allowed to proceed for 2 additional minutes.)

Mr. INSLEE. Mr. Chairman, my point I want to make is this does not stop DOD in their tracks from at least thinking about this issue. They will be allowed to consider this issue, but they will not be able to actually pull the trigger to waive these collective bargaining rights, to waive these appeal rights, to waive these due process rights.

Third: One friend on the other side of the aisle suggested that this amendment is a bad idea, because now we are in the age of faxes and computers and this is a new day and age, so we should give unfettered discretion to the Department of Defense to have a new personnel system without statutory rules.

Well, we can use faxes and computers and e-mail and answering machines, but we need to have a system of law to govern what due process rights the Congress has a role in deciding. These are rights that belong to individuals that are held very dearly by our employees, and we can use computers and faxes, but we need to do in a method that is rules-based.

We got into a little trouble, we got into a little trouble when the Department of Defense decided they could sort of ignore this rules-based Geneva treaty system, because they thought they should just have unilateral discretion in deciding how to handle some of these issues. That was kind of a sort of suggestion that we need rules.

Now, I am not suggesting our employees are going to be tortured, thank goodness that is not going to be the case, but we do need a rules-based employment system, and we cannot allow unilateral decision making by the Department of Defense.

The fourth issue I want to make, this is not going to stop reform. We need to work on it in Congress. I think we have seen the whites of the eyes that this has been a very, very controversial issue that has inflamed the 700,000 people that we need to build morale on.

Mr. LEWIS of California. Mr. Chairman, it is with great reluctance that I rise in opposition to this amendment.

Mr. Chairman, what the gentleman is discussing here is an important policy question which was discussed thoroughly in the authorizing committee last year. The policy was established. If the gentleman had a problem with that

policy development, I regret he did not come to talk with us either at our markup process in the subcommittee or beyond that.

But it is clear to anybody who would look at the personnel difficulties within this huge department, the Department of Defense, there are needs for reform and change within this great arena. The authorizing committee did address that question.

The gentleman from Washington (Mr. INSLEE) suggests he does not stop the Department in its tracks, he just stops the money from flowing, which is somewhere close to my track, at any rate.

It seems to me that without the ability to change labor management relations within the Department, the Department will be faced with negotiating all personnel policies with over 1,366 unions, and change is not going to take place under those circumstances.

A new adverse action and appeals system would allow the Department to take more prompt action on employees who are not performing on their jobs or facing disciplinary action based on misconduct. The current appeals system is lengthy and demands an overburden of proof before management can take action. The new system that the authorizing committee has gone forward with would establish a new process, while maintaining employee rights to fair consideration.

The bottom line is that DOD should oppose this amendment, and we oppose it as well.

Mr. Chairman, I appreciate looking forward to working with the gentleman, but I wish we had had a chance to do so before today.

Mr. VAN HOLLEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am proud to join the gentleman from Washington (Mr. INSLEE) in offering this amendment. As we have heard, last year, tucked into the 2004 defense authorization bill was a provision that gave the Bush administration, and any other future administration, Republican or Democrat, a virtually blank check to rewrite the rules and protections that govern 700,000 civil servants in the Department of Defense. What that provision did was strip Pentagon civilians of the statutory protections we have had on a bipartisan basis for decades.

We in this Congress, we in this House, have an obligation to ensure that those civilian employees of the Defense Department are treated fairly and treated with respect, and we should not surrender that authority and those obligations to any administration, Republican or Democrat. Yet that is what we did last year in the authorization bill.

While the Committee on Armed Services may have considered this issue, the fact of the matter is the full House has never had an opportunity to consider this issue, because the Committee on Rules did not make in order an amendment on exactly this question.

So we did not have an opportunity to debate this last year in the House. This is the first time we now have an opportunity to address this issue straight on.

The testimony we have heard from the administration officials over the years, Republican and Democrat, has been clear, that our national security depends on a strong partnership between the military part of the Pentagon and the civilian civil servants. Taking away the basic protections that our civil servants enjoy with the Department of Defense would damage that partnership, it would hurt morale, and it sends a terrible message to the many men and women who we entrust with important national security work.

Why should we give the executive branch the authority to eliminate rules that protect employees from discrimination based on political affiliation? Do we not want people to exercise independent political judgment and not fear political repercussions? Why should we give the Executive Branch the authority to rewrite and eliminate rules of due process that protect employees in certain situations? Why should we give the executive branch the authority to eliminate the requirement that DOD bargain in good faith with their employees?

Now, last year, many in the administration said, "don't worry, we are not going to take advantage of those authorities. Trust us. We will not go that far."

Well, in February we saw the first write of the rules, and the fact of the matter is on both sides of the aisle, many people said, wait a minute. When we signed up for this, we did not think you were going to exercise your authority in this way in terms of taking away certain good faith bargaining rights.

So that is what this amendment is about. As my colleague from Washington said, this does not throw out all the authorities. What we are saying is let us take a year, let us take a time out, and let us adopt the adage that many have shown is good advice, "trust, but verify." Why should we provide a blank check?

Let us give the administration an opportunity now to come before the Congress to show us exactly what rules they want, and we can have an opportunity to take a look at them, rather than giving them a blank check in advance and then being totally at their mercy as to what they put in effect.

So this is a common sense provision. I believe it is a bipartisan decision. Let us let the administration tell us what they plan to do, and, if we think it makes sense, we can move forward on it at that time.

Trust, but verify.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Inslee-Van Hollen amendment. Last year, Congress gave the Department of Defense the authority to design a new civilian personnel system

for its employees as part of the defense authorization bill. I opposed that part of the bill because it included a blanket waiver for the new system from all of the worker protections which Congress has wisely enacted through the years. Unfortunately, the House was denied a chance to vote directly on these changes in 2004, I must assume because of fear about how the vote would turn out.

Now the Department of Defense is designing the new system, and the initial proposal published by the Department this spring, as mentioned by others, has confirmed every fear voiced by members of the House, such as myself and the gentleman from Washington (Mr. INSLEE) and the gentleman from Maryland (Mr. VAN HOLLEN) about the new system. The initial proposal produced by the Department would have trampled worker rights in a wanton and deliberate fashion.

More recently, Navy Secretary Gordon England has been assigned to work this issue for DOD, and he has pledged to work with DOD unions and employee organizations to design a fairer system. I am strongly encouraged by his involvement, but I also believe that DOD must design a new system which is consistent with strong worker protections. This guarantee is all that the Inslee-Van Hollen amendment would add to the bill before us today.

Furthermore, there is an important monetary reason for supporting this amendment which is appropriate on the bill which deals with the defense budget. DOD has proposed creating within the Department of Defense two massive new bureaucracies which would duplicate the work of the existing Federal labor relations authority and the Merit System Protection Board. I believe that it would be irresponsible in the extreme for this committee to divert funding from badly needed warfighting priorities just so that the Department of Defense can duplicate the functions of independent government agencies under the control of the Secretary of Defense.

This harms national security at the same time that it undermines worker rights.

For all these reasons, Mr. Chairman, I ask that my colleagues support the Inslee-Van Hollen amendment and put the new personnel system at DOD back on the right track.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Maryland, the distinguished Democratic whip.

Mr. HOYER. Mr. Chairman, I thank my friend for yielding. Rather than prolong the debate, I want to adapt that which has been put forward by the gentleman from Washington (Mr. INSLEE) and the gentleman from Maryland (Mr. VAN HOLLEN) in sponsoring this, and adopt the gentleman's remarks as well, and simply say that I think the gentleman from Maryland (Mr. VAN HOLLEN) and the gentleman from Washington (Mr. INSLEE) and the gentleman

from Washington (Mr. DICKS) have put their finger on it.

□ 1630

We abrogated essentially laws, statutes passed by the Congress, signed by the Presidents of the United States, without reviewing the changes that would be put before us and would impact on our Federal employees. That is all I think the sponsors are asking for the opportunity to do, and I would hope that the Members on both sides of the aisle would adopt this amendment, proceed in that fashion over the next year, and have the opportunity to review the changes that are suggested.

I thank the gentleman from Washington State, who has been a giant on behalf of Federal employees during our careers here, and I thank him for yielding.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding. I have not had a chance to talk to the gentleman from Pennsylvania (Mr. MURTHA) about this, but I believe that the gentleman from Washington State is still a member of the subcommittee; is he not?

Mr. DICKS. Yes, I am.

Mr. LEWIS of California. Well, I really look forward to discussing this with the gentleman personally before we come to the floor.

Mr. DICKS. Mr. Chairman, reclaiming my time, we did have a proposal in our written document that went to the chairman that laid out a proposal, a different approach to this; and it would have just protected the public shipyards, both on the east coast, the west coast, and Hawaii.

Mr. LEWIS of California. Mr. Chairman, if the gentleman would yield further, I do very much appreciate the opportunity to discuss these matters with my colleague, sometimes privately, sometimes publicly.

Mr. DICKS. And I appreciate the gentleman's willingness to discuss this issue. I know of his concern for government workers, because he has many in his own district; and I know that he will treat them as fairly as he has always treated me.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, I have to oppose this amendment. It has just come up at the last minute. As technical as it is, and the gentleman talked to me about it and I looked at it, and all of us are trying to do the same thing: make sure that we do some reform, but that we do not go too far. I think Gordon England is the right one to look at this thing. I know the Defense Department is very nervous about the direction they were going at first, and I am afraid this bill will be vetoed if it has this language in it.

Mr. DICKS. Mr. Chairman, reclaiming my time, I just mention this to my friend from Pennsylvania, that the Steel Workers Union of America is strongly in favor of this legislation. They want to see workers protected.

Mr. MURTHA. Mr. Chairman, if the gentleman will further yield, I do not doubt they are, and I appreciate their recommendation; but this is the wrong approach to it. It just goes a little too far. I think we need to work on this kind of thing together. And at the last minute, it just makes it hard for us to accept something like this. So I would hope we defeat this amendment and try to work something out later on.

The CHAIRMAN. The time of the gentleman from Washington (Mr. DICKS) has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 30 additional seconds.)

Mr. DICKS. Mr. Chairman, I would just point out one other thing to my distinguished chairman. I had no idea that this amendment would be offered on the floor; but once it was, I felt compelled to speak on behalf of it.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Inslee-Van Hollen amendment, and I do so because the basic rights and freedoms that we are attempting to guarantee for these civilian labor forces in DOD are those rights for which our military has fought and continues to fight.

The real reason that we are involved in Iraq and in other places throughout the world is to guarantee rights and freedoms for individuals. We simply want to guarantee those same rights and freedoms for our workforce.

I was heartened to hear the gentleman from California (Mr. LEWIS) suggest that perhaps there is a window of opportunity for continuous discussion, for continuous interaction. I was pleased to hear the ranking member suggest that this is the last minute; and, hopefully, we can have continuous discussions over an extended period of time to make sure that we can guarantee for our civilian workforce those rights and privileges for which our military fights throughout the world.

So I support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. INSLEE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. INSLEE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Washington (Mr. INSLEE) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. STRICKLAND

Mr. STRICKLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRICKLAND: At the end of the bill (before the short title), insert the following:

TITLE X—ADDITIONAL GENERAL PROVISIONS

SEC. 10001. None of the funds appropriated or otherwise made available by this Act may be used for any plan for compensation of individuals held in military prisons under the control of the United States in Iraq unless the plan includes a provision to address the injuries suffered by the 17 citizens of the United States who were held as prisoners of war by the regime of Saddam Hussein during the Persian Gulf War in 1991.

Mr. STRICKLAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

Mr. STRICKLAND. Mr. Chairman, I thank the gentleman for reserving a point of order.

Mr. Chairman, I intend to withdraw this amendment; but, first of all, I would like to take some moments to speak about it, because I think it is an issue that needs to be brought to the attention of this body.

We all know that during the 1991 Gulf War, Iraq savagely tortured American POWs by inflicting beatings, starvation, electric shock, whippings, mock executions, threatened castration, broken bones, and burst eardrums. These actions were condemned by this Congress on three different resolutions.

In April of 2002, these ex-POWs filed suit against the Iraqi regime under the law that this Congress had passed that allowed torture victims to file suit against terrorist states. If successful in court, these victims are then ensured access to the blocked assets of that terrorist state to obtain payment.

Through their suit, the POWs sought to raise public awareness about POWs, to hold Saddam Hussein and his regime accountable, and to deter the torture of American servicemen and -women in the future, and to obtain compensation for their injuries.

Last year, a Federal judge ruled in favor of the 17 POWs that filed suit. However, the Bush administration has stood in the way of these POWs getting the payments awarded them by claiming that the compensation would hamper the reconstruction of Iraq. The administration even appealed the judgment and spent tax dollars fighting the American POWs in court. Sadly, the administration was recently successful in overturning the judgment that allowed the compensation of these ex-POWs.

Now, at the same time the administration was opposing these American POWs in court, Secretary Rumsfeld testified before the Senate Committee on Armed Services saying, "I am seeking a way to provide appropriate compensation" to the Iraqi detainees at Abu Ghraib prison.

So while compensating Iraqi prisoners may be the right thing to do, we should not do this at the very same time that we are refusing to work with the 17 American POWs who won compensation under a law that many of us voted for.

A newspaper back in Ohio read like this: "It was the United States of America and Saddam Hussein versus American POWs, and the United States and Saddam Hussein won."

My amendment, if it was not objected to, would prohibit the Department of Defense from providing compensation to the Iraqi detainees abused at Abu Ghraib until that compensation plan also addressed the injuries suffered by the 17 Americans held as prisoners of war under the regime of Saddam Hussein during the first Gulf War.

Now, over on the Senate side, over on the Senate side they passed by unanimous consent as a part of the Defense authorization bill language identical to the language I have in this amendment. It was offered by Senator REID, and it was co-sponsored by Senator WARNER and Senator LEVIN.

So, Mr. Chairman, although I am withdrawing this amendment due to the objection, I would hope that this body would recognize the injustice. How can we justify providing compensation to Iraqi POWs and fight the compensation for American POWs who were abused in the same way at the very same prison?

So I look forward to working with my colleagues in the days and weeks to come. I intend to find some vehicle, some mechanism to make sure that this injustice is corrected.

Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we all know, and certainly the subcommittee is aware very strongly, the B-1 bomber is an integral part of our bomber fleet. The long-range strike capability of our national defense is enhanced by the superior payload capability, speed, and accuracy of this aircraft.

The Defense authorization and appropriation committees and my good friends, the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Missouri (Mr. SKELTON), the gentleman from California (Mr. HUNTER), and the gentleman from California (Chairman Lewis), have recognized the importance of the B-1 to the Air Force. It performed admirably in Afghanistan and Iraq.

I rise today to discuss provisions in the Defense appropriations and authorization bills that address the reinstatement of B-1s to the fleet. As a strong supporter of the B-1 and having been closely associated with this issue since 1985 when the first B-1 was assigned to Dyess Air Force Base, my support is, and always has been, a commonsense

approach that advocates the best for the Air Force.

The B-1 fleet was recently reduced to its current size of 60 aircraft, with assurances that upgrades will be made to the fleet to increase mission capability rates, defensive systems, and lethality. I supported the Air Force decision in its plan to keep fewer, but top-quality, mission-capable B-1s.

The Defense Authorization Act included a provision for \$105 million to regenerate an additional 10 B-1s above the Air Force recommendation to reinstate seven. The Subcommittee on Defense Appropriations brings to the floor today a recommendation which follows the Air Force's recommendation to regenerate seven aircraft, and also follows the Air Force confirmation that additional funding is not needed beyond the \$17 million appropriated for this purpose in fiscal year 2004.

My concern about the funding for regenerated B-1s is the fact that \$17 million may not be enough for the seven aircraft that initially cost \$283 million each. Again, I strongly support the B-1, but also strongly support full funding for the entire fleet. If we are going to add seven planes, I would like assurances from the chairman and ranking member today that they do believe that the Air Force is correct that \$17 million is sufficient funding to keep 67 planes in the air, flying, with the mission that I know that they support.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, we understand my colleague's concern, and we can tell the gentleman that we believe that there is adequate funding.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we will make sure there is enough money to take care of those airplanes.

Mr. STENHOLM. Mr. Chairman, I appreciate that. I hope that the chairman and ranking member understand the concern here.

As I said before, I have always followed the recommendations of the Air Force. We have some concerns, we are standing down the 13th bomb squadron today at Dyess at the same time we got agreement that the fleet will receive seven extra planes. That takes operational money. That takes manpower. There are some recommendations that are going forward that caused this concern, but I do appreciate the reassurances of the chairman and the ranking member, and we look forward to working with my colleagues to see that the full 67 plane force is, in fact, fully funded and operational to do the job that they have been called on to do in Iraq and Afghanistan and, hopefully, if called upon again, will be able to do as good or a better job.

Mr. MORAN of Kansas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the courtesies extended to me by the gentleman from California (Mr. LEWIS), the chairman.

I rise to discuss an amendment that under appropriate circumstances, if the rules allowed, I would offer today concerning the health care services that are being provided to our service men and women.

□ 1645

In 1997 this Congress passed legislation requiring the Department of Defense to conduct predeployment and post-deployment physicals for our servicemen and women, and as a member of the House Committee on Veterans' Affairs and one who chaired the Committee on Veterans' Affairs Subcommittee on Health for a number of years, we looked at this issue, and my goal in examining what was going on or not going on was based on a concern that we did not want our servicemen and women to return to the United States after deployment and incur Persian Gulf War syndrome.

And one of the things we learned from the Persian Gulf War syndrome studies was that we needed a baseline to know what our servicemen and women encountered, what their health condition was before they departed for their deployment and what their physical condition was when they returned.

In 1997, Congress passed legislation requiring the Department of Defense to conduct physical examinations upon those servicemen and women. I have concerns that those physical examinations are not occurring, and in fact, the GAO report that my subcommittee heard about, took testimony from the GAO, indicates that someplace between 38 and 98 percent of the deployed personnel are lacking in one or both of those physical examinations.

Again, this is an issue that I have requested an additional hearing from the Committee on Veterans' Affairs. During my term as subcommittee chairman, we conducted a series of hearings about the health conditions that our servicemen and women were encountering, and believed that it is awfully important for these physicals to take place, and it is uncertain as to whether they are.

In fact, in March of this year, the Committee on Government Reform Subcommittee on National Security, Emerging Threats and International Relations took testimony, and the DOD indicated that servicemen and women who answer yes to certain questions on the questionnaire then have a referral for additional examinations. That implies to me that those who answer no to questions are not receiving those health care physical examinations by health care personnel.

And so the amendment that I am discussing here today would express a sense of Congress that the Department of Defense should fully comply with section 107(f)(b) of Title 10 of the United States Code relating to those

predeployment and post-deployment medical examinations.

And, again, I would hope that we could hold the Department of Defense's feet to the fire for purposes of protecting the lives and safety and the health of our servicemen and women now deployed.

Mr. HOYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to rise and thank the chairman and the ranking member for accepting the amendment that I offered in full committee on torture, and I want to speak just for a few minutes on that amendment.

Mr. Chairman, the American people watched with shock and horror, as all of us did, as the photos of physical and psychological abuse being inflicted upon Iraqi detainees at the hands of U.S. military personnel were broadcast for the world to see.

Many Members of the House have subsequently expressed their outrage, frankly, and disgust at the acts of torture that took place at Abu Ghraib prison in Iraq.

Some, Mr. Chairman, believe there has been an overreaction, that we are spending too much time on this issue.

Mr. Chairman, I disagree with that view. We must move beyond the mere expressions of outrage, and we must uncover the facts surrounding the torture that occurred at Abu Ghraib, and perhaps at other places as well.

Why? To undermine our efforts in Afghanistan and Iraq? Absolutely not.

To in any way cast doubt on the integrity, courage and good conduct of the thousands of men and women who wear our uniform? Absolutely not.

But we must do so, Mr. Chairman, to emphatically affirm the values for which we fight. These actions represent a grave breach of decades of international and domestic law, and those involved in allowing or in creating an atmosphere in which such actions may seem to be condoned must be held as accountable as those who perpetrated them.

Does a 20-year-old army private decide to put a dog leash on a nude Iraqi detainee and parade him in front of the others and photograph him? I think not.

Do young military guards decide to release guards on detainees? I hope not and I think not.

Secretary Rumsfeld's recent admission of his own violation of the Geneva Convention ordering the secret detention of an Iraqi prisoner for 7 months raises serious questions about the extent of the coordination of the treatment of prisoners of war and detainees in Iraq, Afghanistan and Guantanamo Bay.

The international reaction to these actions damaged our standing in the world. It has undermined our credibility. It has made the already difficult job of securing a broader coalition of support in Iraq and achieving our objectives in Iraq, which I have consistently supported and support to this day, it makes that more difficult, and it has increased the danger of Americans in Iraq and around the world.

While it is true that torture is a clear violation of American and international law, that is not the reason that the United States of America renounces its use.

While it is true that torture undermines our credibility and increases the danger to any Americans traveling abroad, that is not the reason that we renounce its use.

While it is true that torture produces entirely unreliable information, that is not the reason that we renounce its use.

In fact, in a field manual 3452, a 1992 field manual still in force and serves as a basic primer for students and instructors in the army that outlines the Army's doctrine for conducting interrogations, it in the final analysis says this: Imagine that a technique was being applied to American prisoners of war, and ask yourself if it would be consistent with U.S. law. If a doubt still remains as to the legality of a proposed action, seek a legal opinion from your servicing judge advocate.

In other words, do not do these things if you think they would violate U.S. law.

There is another standard that was set forth in a manual of the Army which I thought made a lot of common sense. And it said to them if you would not want an American detainee or prisoner treated in the way you are treating a prisoner, do not do it.

Mr. Chairman, the United States of America renounces the use of torture and mistreatment of prisoners of war and other detainees because it is contrary to the principles upon which the Nation was founded, contrary to our commitment to human rights, and contrary to the value we place on the dignity of all people.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. HOYER) has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 1 additional minute.)

Mr. HOYER. Torture, Mr. Chairman, is quite simply un-American. It is alien to who we are as a people. And where others may seek to rationalize its use, we must not. We must make clear to those who are watching, both friends and foe, that we do not tolerate the behavior that took place, that we will hold accountable all those who are responsible. And that it is not now, nor will it be, the policy of this great and good Nation to sanction the use of torture.

Mr. Chairman, today through language that was included in the fiscal 2005 defense appropriation act for which, again, I thank the chairman and ranking member, we again take an essential step by reaffirming that torture is, in fact, illegal under American and international law, that it is not consistent with American values, and that it is not a policy accepted by the United States of America.

The CHAIRMAN. Are there any further amendments to this portion of the bill?

The Clerk will report the final two lines.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 2005".

AMENDMENT OFFERED BY MR. INSLEE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on the request for a recorded vote on the amendment by the gentleman from Washington (Mr. INSLEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 218, not voting 13, as follows:

[Roll No. 283]

AYES—202

Abercrombie	Ford	McGovern
Ackerman	Frank (MA)	McIntyre
Alexander	Frost	McNulty
Allen	Gonzalez	Meehan
Andrews	Gordon	Meek (FL)
Baca	Green (TX)	Meeks (NY)
Baird	Grijalva	Menendez
Baldwin	Gutierrez	Michaud
Becerra	Harman	Millender-
Bell	Herseeth	McDonald
Berkley	Hill	Miller (NC)
Berry	Hinchee	Miller, George
Bishop (GA)	Hoefel	Moore
Bishop (NY)	Holden	Moran (VA)
Bishop (UT)	Holt	Nadler
Blumenauer	Honda	Napolitano
Boswell	Hoolley (OR)	Neal (MA)
Boucher	Hoyer	Oberstar
Boyd	Inslee	Obey
Brady (PA)	Israel	Oliver
Brown (OH)	Jackson (IL)	Ortiz
Brown, Corrine	Jackson-Lee	Owens
Capps	(TX)	Pallone
Capuano	Jefferson	Pascarell
Cardin	John	Pastor
Cardoza	Johnson (IL)	Payne
Carson (OK)	Johnson, E. B.	Pelosi
Case	Jones (NC)	Peterson (MN)
Chandler	Jones (OH)	Pomeroy
Clay	Kanjorski	Price (NC)
Clyburn	Kaptur	Rahall
Conyers	Kennedy (RI)	Rangel
Cooper	Kildee	Rodriguez
Costello	Kilpatrick	Ross
Cramer	Kind	Rothman
Crowley	Kleczka	Roybal-Allard
Cummings	Kucinich	Ruppersberger
Davis (AL)	Lampson	Rush
Davis (CA)	Langevin	Ryan (OH)
Davis (FL)	Lantos	Sabo
Davis (IL)	Larsen (WA)	Sánchez, Linda
Davis (TN)	Larson (CT)	T.
DeFazio	Lee	Sanchez, Loretta
DeGette	Levin	Sanders
Delahunt	Lewis (GA)	Sandlin
DeLauro	Lipinski	Schakowsky
Dicks	Lofgren	Schiff
Dingell	Lowey	Scott (GA)
Doggett	Lucas (KY)	Scott (VA)
Dooley (CA)	Lynch	Serrano
Doyle	Majette	Sherman
Edwards	Maloney	Simmons
Emanuel	Markey	Skelton
Engel	Marshall	Slaughter
Eshoo	Matheson	Smith (WA)
Etheridge	Matsui	Snyder
Evans	McCarthy (MO)	Solis
Farr	McCarthy (NY)	Spratt
Fattah	McCollum	Stark
Filner	McDermott	Stenholm

Strickland	Turner (TX)	Waxman
Stupak	Udall (CO)	Weiner
Tanner	Udall (NM)	Wexler
Tauscher	Van Hollen	Wolf
Taylor (MS)	Velázquez	Woolsey
Thompson (CA)	Visclosky	Wu
Thompson (MS)	Waters	Wynn
Tierney	Watson	
Towns	Watt	

□ 1721

Mr. CHOCOLA and Mr. RENZI changed their vote from “aye” to “no.” Ms. CORRINE BROWN of Florida, Mr. BOSWELL, and Mr. JOHNSON of Illinois changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LINDER) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, pursuant to House Resolution 683, he reported the bill as amended pursuant to that resolution back to the House with sundry further amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to. The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by a 5-minute vote, as ordered, on a motion to suspend the rules and adopt House Resolution 658.

The vote was taken by electronic device, and there were—yeas 403, nays 17, not voting 13, as follows:

[Roll No. 284]

YEAS—403

Abercrombie	Bishop (NY)	Burton (IN)
Ackerman	Bishop (UT)	Buyer
Aderholt	Blackburn	Calvert
Akin	Blumenauer	Camp
Alexander	Blunt	Cannon
Allen	Boehlert	Cantor
Andrews	Boehner	Capito
Baca	Bonilla	Capps
Bachus	Bonner	Capuano
Baird	Bono	Cardin
Baker	Boozman	Cardoza
Baldwin	Boswell	Carson (OK)
Ballenger	Boucher	Carter
Barrett (SC)	Boyd	Case
Bartlett (MD)	Bradley (NH)	Castle
Barton (TX)	Brady (PA)	Chabot
Bass	Brady (TX)	Chandler
Beauprez	Brown (OH)	Chocola
Becerra	Brown (SC)	Clay
Bell	Brown, Corrine	Clyburn
Berkley	Brown-Waite,	Coble
Berry	Ginny	Cole
Biggert	Burgess	Collins
Billirakis	Burns	Cooper
Bishop (GA)	Burr	Costello

Cox	Hulshof	Nunes
Cramer	Hunter	Nussle
Crane	Hyde	Oberstar
Crenshaw	Inlee	Obey
Crowley	Isakson	Olver
Cubin	Israel	Ortiz
Culberson	Issa	Osborne
Cummings	Istook	Ose
Cunningham	Jefferson	Otter
Davis (AL)	Jenkins	Oxley
Davis (CA)	John	Pallone
Davis (FL)	Johnson (CT)	Pascarell
Davis (IL)	Johnson (IL)	Pastor
Davis (TN)	Johnson, E. B.	Pearce
Davis, Jo Ann	Johnson, Sam	Pelosi
Davis, Tom	Jones (NC)	Pence
Deal (GA)	Jones (OH)	Peterson (MN)
DeFazio	Kanjorski	Peterson (PA)
DeGette	Kaptur	Petri
Delahunt	Keller	Pickering
DeLauro	Kelly	Pitts
DeLay	Kennedy (MN)	Platts
Diaz-Balart, L.	Kennedy (RI)	Pombo
Diaz-Balart, M.	Kildee	Pomeroy
Dicks	Kilpatrick	Porter
Dingell	Kind	Portman
Doggett	King (IA)	Price (NC)
Dooley (CA)	King (NY)	Pryce (OH)
Doolittle	Kingston	Putnam
Doyle	Kirk	Quinn
Dreier	Kleccka	Radanovich
Duncan	Kline	Rahall
Dunn	Knollenberg	Ramstad
Edwards	Kolbe	Rangel
Ehlers	LaHood	Regula
Emanuel	Lampson	Rehberg
Emerson	Langevin	Renzi
Engel	Lantos	Reynolds
English	Larsen (WA)	Rodriguez
Eshoo	Larson (CT)	Rogers (AL)
Etheridge	Latham	Rogers (KY)
Evans	LaTourette	Rogers (MI)
Everett	Leach	Rohrabacher
Farr	Levin	Ros-Lehtinen
Fattah	Lewis (CA)	Ross
Feeney	Lewis (KY)	Rothman
Ferguson	Linder	Roybal-Allard
Filner	Lipinski	Royce
Flake	LoBiondo	Ruppersberger
Foley	Lofgren	Rush
Forbes	Lowey	Ryan (OH)
Ford	Lucas (KY)	Ryan (WI)
Fossella	Lucas (OK)	Ryun (KS)
Frank (MA)	Lynch	Sabo
Franks (AZ)	Majette	Sánchez, Linda
Frelinghuysen	Maloney	T.
Frost	Manzullo	Sanchez, Loretta
Gallegly	Markey	Sanders
Garrett (NJ)	Marshall	Sandlin
Gerlach	Matheson	Saxton
Gibbons	Matsui	Schiff
Gilchrest	McCarthy (MO)	Schrock
Gillmor	McCarthy (NY)	Scott (GA)
Gingrey	McCollum	Scott (VA)
Gonzalez	McCotter	Sensenbrenner
Goode	McCrary	Serrano
Goodlatte	McGovern	Sessions
Gordon	McHugh	Shadegg
Goss	McIntyre	Shaw
Granger	McKeon	Shays
Graves	McNulty	Sherman
Green (TX)	Meehan	Sherwood
Green (WI)	Meek (FL)	Shimkus
Greenwood	Meeks (NY)	Shuster
Grijalva	Menendez	Simmons
Gutierrez	Mica	Simpson
Gutknecht	Michaud	Skelton
Hall	Millender-	Slaughter
Harman	McDonald	Smith (MI)
Harris	Miller (FL)	Smith (NJ)
Hart	Miller (MI)	Smith (TX)
Hastings (WA)	Miller (NC)	Smith (WA)
Hayes	Miller, Gary	Snyder
Hayworth	Miller, George	Solis
Hefley	Moore	Souder
Hensarling	Moran (KS)	Spratt
Herger	Moran (VA)	Stearns
Herseth	Murphy	Stenholm
Hill	Murtha	Strickland
Hinchev	Musgrave	Stupak
Hobson	Myrick	Sullivan
Hoeffel	Nadler	Sweeney
Hoekstra	Napolitano	Tancredo
Holden	Neal (MA)	Tanner
Holt	Nethercutt	Tauscher
Hooley (OR)	Neugebauer	Taylor (MS)
Hostettler	Ney	Taylor (NC)
Houghton	Northup	Terry
Hoyer	Norwood	Thomas

NOT VOTING—13

Bereuter	Gephardt	Reyes
Berman	Hastings (FL)	Tauzin
Carson (IN)	Hinojosa	Whitfield
DeMint	McInnis	
Deutsch	Mollohan	

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

Thompson (CA)	Upton	Weller	Cubin	Israel	Nunes	Taylor (NC)	Udall (NM)	Weldon (FL)
Thompson (MS)	Van Hollen	Wexler	Culberson	Issa	Nussle	Terry	Upton	Weldon (PA)
Thornberry	Velázquez	Wicker	Cummings	Istook	Oberstar	Thomas	Van Hollen	Weller
Tiahrt	Viscolosky	Wilson (NM)	Cunningham	Jackson (IL)	Obey	Thompson (CA)	Velázquez	Wexler
Tiberi	Vitter	Wilson (SC)	Davis (AL)	Jackson-Lee	Olver	Thompson (MS)	Viscolosky	Wicker
Tierney	Walden (OR)	Wolf	Davis (CA)	(TX)	Ortiz	Thornberry	Vitter	Wilson (NM)
Toomey	Walsh	Wu	Davis (FL)	Jefferson	Osborne	Tiahrt	Walden (OR)	Wilson (SC)
Towns	Wamp	Wynn	Davis (IL)	Jenkins	Ose	Tiberi	Walsh	Wolf
Turner (OH)	Waxman	Young (AK)	Davis (TN)	John	Otter	Tierney	Wamp	Woolsey
Turner (TX)	Weiner	Young (FL)	Davis, Jo Ann	Johnson (CT)	Owens	Toomey	Waters	Wu
Udall (CO)	Weldon (FL)		Davis, Tom	Johnson (IL)	Oxley	Towns	Watson	Wynn
Udall (NM)	Weldon (PA)		Deal (GA)	Johnson, E. B.	Pallone	Turner (OH)	Watt	Young (AK)
			DeFazio	Johnson, Sam	Pascrell	Turner (TX)	Waxman	Young (FL)
			DeGette	Jones (NC)	Pastor	Udall (CO)	Weiner	

NAYS—17

Conyers	Lee	Schakowsky
Honda	Lewis (GA)	Stark
Jackson (IL)	McDermott	Waters
Jackson-Lee	Owens	Watson
(TX)	Paul	Watt
Kucinich	Payne	Woolsey

NOT VOTING—13

Bereuter	Gephardt	Reyes
Berman	Hastings (FL)	Tauzin
Carson (IN)	Hinojosa	Whitfield
DeMint	McInnis	
Deutsch	Mollohan	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDBER) (during the vote). Two minutes remain in this vote.

□ 1740

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING NATIONAL HOMEOWNERSHIP MONTH

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 658.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GARY G. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 658, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, not voting 16, as follows:

[Roll No. 285]

YEAS—415

Abercrombie	Blackburn	Cannon	Akin	Boehner	Capito	Harman	McNulty	Meehan	Miller (FL)
Ackerman	Blumenauer	Cantor	Allen	Bonilla	Cardin	Harris	McGovern	Meeke (FL)	Miller (MI)
Aderholt	Blunt	Capito	Andrews	Bonner	Cardoza	Hart	McHugh	Meeks (NY)	Miller (NC)
Akin	Boehner	Capps	Andrews	Bonner	Cardoza	Hastings (WA)	McIntyre	Menendez	Miller, Gary
Alexander	Boehner	Capuano	Baca	Bono	Carson (OK)	Hayes	McKeon	Mica	Miller, George
Allen	Bonilla	Cardin	Bachus	Bono	Carson (OK)	Hayworth	McNulty	Michaud	Miller (VA)
Allen	Bonilla	Cardin	Baird	Boozman	Carter	Hefley	McNulty	Millender-	Miller (WA)
Andrews	Bonner	Cardoza	Baker	Boswell	Case	Hensarling	McNulty	McDonald	Miller (TX)
Baca	Bono	Carson (OK)	Baldwin	Boucher	Castle	Herger	McNulty	McDonnell	Smith (MI)
Bachus	Boozman	Carter	Baker	Boyer	Chabot	Herseth	McNulty	McDonnell	Smith (NY)
Baird	Boswell	Case	Baldwin	Boyer	Chabot	Hill	McNulty	McDonnell	Smith (TX)
Baker	Boucher	Castle	Ballenger	Bradley (NH)	Chandler	Hinchee	McNulty	McDonnell	Smith (WA)
Baldwin	Boyer	Chabot	Barrett (SC)	Brady (PA)	Chocoma	Hobson	McNulty	McDonnell	Snyder
Bartlett (MD)	Brady (TX)	Clay	Bartlett (MD)	Brady (TX)	Clay	Hoeffel	McNulty	McDonnell	Solis
Barton (TX)	Brown (OH)	Clyburn	Barton (TX)	Brown (OH)	Clyburn	Hoeckstra	McNulty	McDonnell	Souder
Bass	Brown (SC)	Coble	Bass	Brown (SC)	Coble	Holden	McNulty	McDonnell	Spratt
Beauprez	Brown, Corrine	Cole	Beauprez	Brown, Corrine	Cole	Holt	McNulty	McDonnell	Stearns
Becerra	Brown-Waite,	Collins	Becerra	Brown-Waite,	Collins	Honda	McNulty	McDonnell	Stenholm
Bell	Ginny	Conyers	Bell	Ginny	Conyers	Hooley (OR)	McNulty	McDonnell	Strickland
Berkley	Burgess	Cooper	Berkley	Burgess	Cooper	Hostettler	McNulty	McDonnell	Stupak
Berry	Burns	Costello	Berry	Burns	Costello	Houghton	McNulty	McDonnell	Sullivan
Biggert	Burr	Cox	Biggert	Burr	Cox	Hoyer	McNulty	McDonnell	Sweeney
Bilirakis	Burton (IN)	Cramer	Bilirakis	Burton (IN)	Cramer	Hulshof	McNulty	McDonnell	Tancred
Bishop (GA)	Buyer	Crane	Bishop (GA)	Buyer	Crane	Hunter	McNulty	McDonnell	Tanner
Bishop (NY)	Calvert	Crenshaw	Bishop (NY)	Calvert	Crenshaw	Inslee	McNulty	McDonnell	Tauscher
Bishop (UT)	Camp	Crowley	Bishop (UT)	Camp	Crowley	Isakson	McNulty	McDonnell	Taylor (MS)

Taylor (NC)	Udall (NM)	Weldon (FL)
Terry	Upton	Weldon (PA)
Thomas	Van Hollen	Weller
Thompson (CA)	Velázquez	Wexler
Thompson (MS)	Viscolosky	Wicker
Thornberry	Vitter	Wilson (NM)
Tiahrt	Walden (OR)	Wilson (SC)
Tiberi	Walsh	Wolf
Tierney	Wamp	Woolsey
Toomey	Waters	Wu
Towns	Watson	Wynn
Turner (OH)	Watt	Young (AK)
Turner (TX)	Waxman	Young (FL)
Udall (CO)	Weiner	

NAYS—2

Flake Paul

NOT VOTING—16

Bereuter	Hastings (FL)	Reyes
Berman	Hinojosa	Stark
Carson (IN)	Lantos	Tauzin
DeMint	McInnis	Whitfield
Deutsch	Mollohan	
Gephardt	Myrick	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1748

So (two thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber today during rollcall votes No. 284 and No. 285.

Had I been present, I would have voted "yea" on rollcall No. 284, and "yea" on rollcall No. 285.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 283, the Inslee amendment—"yes"; rollcall No. 284, Final Passage of H.R. 4613—"yes"; and rollcall No. 285, H. Res. 658—"yes."

APPOINTMENT OF MEMBERS TO ABRAHAM LINCOLN STUDY ABROAD FELLOWSHIP PROGRAM

The SPEAKER pro tempore (Mr. LINDBER). Pursuant to section 104(c)(1) of the Consolidated Appropriations Act, 2004, (Public Law 108-199), and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following members on the part of the House to the Commission on the Abraham Lincoln Study Abroad Fellowship Program:

Mr. Mark Kirk, Wilmette, Illinois;
Mr. JOHN C. Peters, DeKalb, Illinois;
Mr. S. Kerry Cooper, College Station, Texas.

COMMUNICATION FROM HONORABLE NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader: