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H. R. 1268

One Hundred Ninth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourth day of January, two thousand and five

An Act

Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
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DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005

Title I—Defense Related Appropriations
Title II—International Programs and Assistance for Reconstruction and the War on Terror
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DIVISION B—REAL ID ACT OF 2005

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—DEFENSE-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $13,609,208,000, of which not to exceed $508,374,000 shall remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $535,108,000, of which not to exceed $19,928,000 shall remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $1,358,053,000, of which not to exceed $220,227,000 shall remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $1,599,943,000, of which not to exceed $16,471,000 shall remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $39,627,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $9,411,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $4,015,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $130,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $291,100,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $91,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $16,980,304,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $3,030,574,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $982,464,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,627,053,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $3,042,265,000, of which—

(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) up to $1,220,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $26,354,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $75,164,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $24,920,000: *Provided,* That the amount

provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $326,850,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AFGHANISTAN SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Afghanistan Security Forces Fund", $1,285,000,000, to remain available until September 30, 2006: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Forces Command—Afghanistan, or the Secretary's designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, 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 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; and defense working capital funds to accomplish the purposes provided herein: *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 so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That of the amounts provided under this heading, $290,000,000 shall be transferred to "Operation and Maintenance, Army" to reimburse the Department of the Army for costs incurred to train, equip and provide related assistance to Afghan security forces: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *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 the amount provided under this heading is designated

as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Iraq Security Forces Fund", $5,700,000,000, to remain available until September 30, 2006: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, 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 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; and defense working capital funds to accomplish the purposes provided herein: *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 so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That of the amounts provided under this heading, $210,000,000 shall be transferred to "Operation and Maintenance, Army" to reimburse the Department of the Army for costs incurred to train, equip, and provide related assistance to Iraqi security forces: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further,* That, notwithstanding any other provision of law, from funds made available under this heading, $99,000,000 shall be used to provide assistance to the Government of Jordan to establish a regional training center designed to provide comprehensive training programs for regional military and security forces and military and civilian officials, to enhance the capability of such forces and officials to respond to existing and emerging security threats in the region: *Provided further,* That assistance authorized by the preceding proviso may include the provision of facilities, equipment, supplies, services and training, and the Secretary of Defense may transfer funds to any Federal agency for the purpose of providing such assistance: *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 the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $458,677,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", $310,250,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $2,551,187,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $532,800,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $6,250,505,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $200,295,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $66,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $139,635,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $78,397,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $3,283,042,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $277,309,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", $6,998,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $2,577,560,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $645,939,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $37,170,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $204,051,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $142,500,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $203,561,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $1,511,300,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for "National Defense Sealift Fund", $32,400,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For an additional amount for "Intelligence Community Management Account", $250,300,000, of which $181,000,000 is to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $242,000,000: *Provided,* That these funds may be used for such activities related to Afghanistan and the Central Asia area: *Provided further,* That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; and procurement: *Provided further,* That the funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph 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 not to exceed $70,000,000 of the funds provided herein may be used to reimburse fully this account for obligations incurred for the purposes provided under this heading prior to enactment of this Act: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $148,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $210,550,000 for Operation and maintenance: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", $847,191,000, to remain available until September 30, 2006: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Military Construction, Navy and Marine Corps", $139,880,000, to remain available until September 30, 2006: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $140,983,000, to remain available until September 30, 2006: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS TITLE

SPECIAL TRANSFER AUTHORITY

(TRANSFER OF FUNDS)

SEC. 1001. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $3,000,000,000 of the funds made available to the Department of Defense in this title, except for military construction: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further,* That the transfer authority provided

in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005, except for the fourth proviso: *Provided further,* That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL TRANSFER AUTHORITY

(TRANSFER OF FUNDS)

SEC. 1002. Section 8005 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 969), is amended by striking "$3,500,000,000" and inserting in lieu thereof "$6,185,000,000": *Provided,* That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

COUNTER-DRUG ACTIVITIES

SEC. 1003. (a) AUTHORITY TO PROVIDE SUPPORT.—Of the amount appropriated by this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense", not to exceed $34,000,000 may be made available for support for counter-drug activities of the Government of Afghanistan, and not to exceed $4,000,000 may be made available for support for counter-drug activities of the Government of Pakistan: *Provided*, That such support shall be in addition to support provided for the counter-drug activities of said Governments under any other provision of the law.

(b) TYPES OF SUPPORT.—(1) Except as specified in subsections (b)(2) and (b)(3) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Law 106–398 and Public Law 108–136) and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2005.

(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

(3) For the Government of Afghanistan, the Secretary of Defense may also provide individual and crew-served weapons, and ammunition for counter-drug security forces.

EXTRAORDINARY AND EMERGENCY EXPENSES

SEC. 1004. The paragraph under the heading "Operation and Maintenance, Defense-Wide" in title II of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), is amended in the first proviso by striking "$32,000,000" and inserting "$40,000,000".

ADVANCE BILLING

SEC. 1005. For fiscal year 2005, the limitation under paragraph (3) of section 2208(l) of title 10, United States Code, on the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in a fiscal year shall be applied by substituting "$1,500,000,000" for "$1,000,000,000".

COMMANDER'S EMERGENCY RESPONSE PROGRAM

SEC. 1006. Section 1201(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2077), as amended by section 102 of title I of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is further amended by striking "$500,000,000" in the matter preceding paragraph (1) and inserting "$854,000,000": *Provided,* That from funds available for the Commander's Emergency Response Program for fiscal year 2005, not to exceed $10,000,000 may be used to purchase weapons from any person, foreign government, international organization or other entity for the purpose of protecting United States forces overseas, and to dispose of the weapons purchased: *Provided further,* That the Secretary of Defense shall submit to the congressional defense committees quarterly reports regarding the purchase and disposal of weapons under this subsection.

CLASSIFIED PROGRAM

SEC. 1007. Section 8090(b) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), is amended by striking "$185,000,000" and inserting "$210,000,000".

LIMITATION ON CIVILIAN COMPENSATION

SEC. 1008. (a) During calendar year 2005 and notwithstanding section 5547 of title 5, United States Code, the head of an Executive agency may waive the limitation, up to $200,000, established in that section for total compensation, including limitations on the aggregate of basic pay and premium pay payable in a calendar year, to an employee who performs work while in an overseas location that is in the area of responsibility of the Commander of the U.S. Central Command, in support of, or related to—

(1) a military operation, including a contingency operation; or

(2) an operation in response to a declared emergency.

(b) To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

(c) The Director of the Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of authority granted by this section.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 1009. Section 1096(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), is amended—

(1) by striking "in the fiscal year after the effective date of this Act" and inserting in lieu thereof "in the fiscal years 2005 and 2006"; and

(2) in paragraph (1) by striking "500 new personnel billets" and inserting in lieu thereof "the total of 500 new personnel positions".

COALITION LIAISON OFFICERS

SEC. 1010. Section 1051a(e) of title 10, United States Code, is amended by striking "September 30, 2005" and inserting "December 31, 2005".

RESERVE AFFILIATION BONUS

SEC. 1011. Notwithstanding subsection (c) of section 308e of title 37, United States Code, the maximum amount of the bonus paid to a member of the Armed Forces pursuant to a reserve affiliation agreement entered into under such section during fiscal year 2005 shall not exceed $10,000, and the Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard, may prescribe regulations under subsection (f) of such section to modify the method by which bonus payments are made under reserve affiliation agreements entered into during such fiscal year.

SERVICEMEMBERS' GROUP LIFE INSURANCE

SEC. 1012. (a) INCREASED MAXIMUM AMOUNT OF SERVICEMBERS' GROUP LIFE INSURANCE.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A), by striking clause (i) and inserting the following new clause:

"(i) In the case of a member—

"(I) $400,000 or such lesser amount as the member may elect as provided in subparagraph (B);

"(II) in the case of a member covered by subsection (e), the amount provided for or elected by the member under subclause (I) plus the additional amount of insurance provided for the member by subsection (e); or

"(III) in the case of a member covered by subsection (e) who has made an election under paragraph (2)(A) not to be insured under this subchapter, the amount of insurance provided for the member by subsection (e)."; and

(2) in subsection (d), by striking "$250,000" and inserting "$400,000".

(b) INCREMENTS OF DECREASED AMOUNTS ELECTABLE BY MEMBERS.—Subsection (a)(3)(B) of such section is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse".

(c) ADDITIONAL AMOUNT FOR MEMBERS SERVING IN CERTAIN AREAS OR OPERATIONS.—

(1) INCREASED AMOUNT.—Section 1967 of such title is further amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following new subsection (e):

"(e)(1) A member covered by this subsection is any member as follows:

"(A) Any member who dies as a result of one or more wounds, injuries, or illnesses incurred while serving in an operation or area that the Secretary designates, in writing, as a combat operation or a zone of combat, respectively, for purposes of this subsection.

"(B) Any member who formerly served in an operation or area so designated and whose death is determined (under regulations prescribed by the Secretary of Defense) to be the direct result of injury or illness incurred or aggravated while so serving.

"(2) The additional amount of insurance under this subchapter that is provided for a member by this subsection is $150,000, except that in a case in which the amount provided for or elected by the member under subsection (a)(3)(A)(i)(I) exceeds $250,000, the additional amount of insurance under this subchapter that is provided for the member by this subsection shall be reduced to such amount as is necessary to comply with the limitation in paragraph (3).

"(3) The total amount of insurance payable for a member under this subchapter may not exceed $400,000.

"(4) While a member is serving in an operation or area designated as described in paragraph (1), the cost of insurance of the member under this subchapter that is attributable to $150,000 of insurance coverage shall, at the election of the Secretary concerned—

"(A) be contributed as provided in section 1969(b)(2) of this title, rather through deduction or withholding from the member's pay; or

"(B) if deducted or withheld from the member's pay, be reimbursed to the member through such mechanism as the Secretary concerned determines appropriate.".

(2) FUNDING.—Section 1969(b) of such title is amended—

(A) by inserting "(1)" after "(b)"; and

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

"(2) For each month for which a member insured under this subchapter is serving in an operation or area designated as described by paragraph (1)(A) of section 1967(e) of this title, there may, at the election of the Secretary concerned under paragraph (4)(A) of such section, be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary and certified to the Secretary concerned to be the cost of Servicemembers' Group Life Insurance which is traceable to the cost of providing insurance for the member under section 1967 of this title in the amount of $150,000.".

(d) CONFORMING AMENDMENT.—Section 1967(a)(2)(A) of such title is amended by inserting before the period at the end the following: ", except with respect to insurance provided under paragraph (3)(A)(i)(III)".

(e) COORDINATION WITH VGLI.—Section 1977(a) of such title is amended—

(1) by striking "$250,000" each place it appears and inserting "$400,000"; and

(2) by adding at the end of paragraph (1) the following new sentence: "Any additional amount of insurance provided a member under section 1967(e) of this title may not be treated as an amount for which Veterans' Group Life Insurance shall be issued under this section.".

(f) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election of a member with a spouse not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(i)(I), shall be provided to the spouse of the member."; and

(2) in paragraph (3)—

(A) in the matter preceding clause (i), by striking "and (C)" and inserting ", (C), and (D)"; and

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

"(D) A member with a spouse may not elect not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under subparagraph (A)(i)(I), without the written consent of the spouse.

"(E) Whenever a member who is not married elects not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided for under subparagraph (A)(i)(I), the Secretary concerned shall provide a notice of such election to any person designated by the member as a beneficiary or designated as the member's next-of-kin for the purpose of emergency notification, as determined under regulations prescribed by the Secretary of Defense.".

(g) REQUIREMENT REGARDING REDESIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection:

"(j) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without providing written notice of such modification to the spouse.".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

(i) TERMINATION.—The amendments made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of sections 1967, 1969, 1970, and 1977 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

DEATH GRATUITY

SEC. 1013. (a) INCREASE IN DEATH GRATUITY.—

(1) AMOUNT.—Section 1478 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting ", except as provided in subsections (c), (e), and (f)" after "$12,000";

(B) by redesignating subsection (c) as subsection (d); and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) The death gratuity payable under sections 1475 through 1477 of this title is $100,000 in the case of a death resulting from wounds, injuries, or illnesses that are—

"(1) incurred as described in section 1413a(e)(2) of this title; or

"(2) incurred in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense under section 1967(e)(1)(A) of title 38.".

(2) CONFORMING AMENDMENT.—Subsection (a) of such section, as amended by paragraph (1), is further amended by striking "(as adjusted under subsection (c))" and inserting "(as adjusted under subsection (d))".

(b) RETROACTIVE PAYMENT OF DEATH GRATUITY FOR DEATHS AFTER OCTOBER 7, 2001, FROM COMBAT-RELATED CAUSES OR CAUSES INCURRED IN COMBAT OPERATIONS OR AREAS.—Such section is further amended by adding at the end the following new subsection:

"(e)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable in accordance with this subsection for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

"(2) This subsection applies in the case of a member of the armed forces who dies before the date of the enactment of this subsection as a direct result of one or more wounds, injuries, or illnesses that—

"(A) were incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

"(B) were incurred as described in section 1413a(e)(2) of this title on or after October 7, 2001.

"(3) The amount of additional death gratuity payable under this subsection shall be $238,000, of which—

"(A) $150,000 shall be paid in the manner specified in paragraph (4); and

"(B) $88,000 shall be paid in the manner specified in paragraph (5).

"(4) A payment pursuant to paragraph (3)(A) by reason of a death covered by this subsection shall be paid—

"(A) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds paid on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38; or

"(B) in the case of a person who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who would have received proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.

"(5) A payment pursuant to paragraph (3)(B) by reason of a death covered by this subsection shall be paid equal shares to the beneficiaries who were paid the death gratuity that was paid with respect to that death under this section.".

(c) PAYMENT OF DEATH GRATUITY FOR CERTAIN OTHER DEATHS FROM COMBAT-RELATED CAUSES OR CAUSES INCURRED IN COMBAT OPERATIONS OR AREAS.—Such section is further amended by adding at the end the following new subsection:

"(f)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable in accordance with this subsection for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (e).

"(2) This subsection applies in the case of a member of the armed forces who dies during the period beginning on the date of the enactment of this subsection and ending on the first day of the first month that begins more than 90 days after such date of one or more wounds, injuries, or illnesses that—

"(A) are incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

"(B) are incurred as described in section 1413a(e)(2) of this title.

"(3) The amount of additional death gratuity payable under this subsection shall be $150,000.

"(4) A payment pursuant to paragraph (3) by reason of a death covered by this subsection shall be paid—

"(A) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds payable on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38; or

"(B) in the case of a person who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who receive proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(e) TERMINATION.—

(1) IN GENERAL.—This section and the amendment made by this subsection shall terminate on September 30, 2005. Effective as of October 1, 2005, the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

(2) CONTINUING OBLIGATION TO PAY.—Any amount of additional death gratuity payable under section 1478 of title 10, United States Code, by reason of the amendments made by subsections (b) and (c) of this section that remains payable as of September 30, 2005, shall, notwithstanding paragraph (1), remain payable after that date until paid.

INTELLIGENCE ACTIVITIES AUTHORIZATION

SEC. 1014. 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).

PROHIBITION OF NEW START PROGRAMS

SEC. 1015. (a) None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal year 2004 and 2005 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

(b) Notwithstanding subsection (a) of this section, the Department of the Army may use funds made available in this Act under the heading "Procurement of Ammunition, Army" to procure ammunition and accessories therefor that have a standard-type classification, under Army regulations pertaining to the acceptability of materiel for use, and that are the same as other ammunition and accessories therefor that have been procured with funds made available under such heading in past appropriations Acts for the Department of Defense, only for 25 mm high explosive rounds for M2 Bradley Fighting Vehicles, 120 mm multi-purpose anti-tank and obstacle reduction rounds for M1 Abrams tanks, L410 aircraft countermeasure flares, 81 mm mortar red phosphorous smoke rounds, MD73 impulse cartridge for aircraft flares, and 20 mm high explosive rounds for C–RAM, whose stocks have been depleted and must be replenished for continuing operations of the Department of the Army.

CHEMICAL WEAPONS DEMILITARIZATION

SEC. 1016. (a)(1) Notwithstanding section 917 of Public Law 97–86, as amended, of the funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005 (Public Law 108–287), the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005 (Public Law 108–324), and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, the unobligated balance as of the date of enactment of this Act, shall remain available for obligation solely for such purpose and shall be made available not later than 30 days after the date of the enactment of this Act to the Program Manager for Assembled Chemical Weapons Alternatives for activities related to such purpose at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado.

(2) Of the funds made available under paragraph (a)(1), not less than $100,000,000 shall be obligated not later than 120 days after the date of the enactment of this Act.

(b)(1) Notwithstanding section 917 of Public Law 97–86, as amended, none of the funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, may be deobligated, transferred, or reprogrammed out of the Assembled Chemical Weapons Alternatives Program.

(2) The amount appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military

Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, is $813,440,000.

(c) No funds appropriated or otherwise made available to the Secretary of Defense under this Act or any other Act may be obligated or expended to finance directly or indirectly any study related to the transportation of chemical weapons across State lines.

PHILADELPHIA REGIONAL PORT AUTHORITY

SEC. 1017. Section 115 of division H of Public Law 108–199 is amended by striking all after "made available" and substituting ", notwithstanding section 2218(c)(1) of title 10, United States Code, for a grant to Philadelphia Regional Port Authority, to be used solely for the purpose of construction, by and for a Philadelphia-based company established to operate high-speed, advanced-design vessels for the transport of high-value, time-sensitive cargoes in the foreign commerce of the United States, of a marine cargo terminal and IT network for high-speed commercial vessels that is capable of supporting military sealift requirements.": *Provided,* That of the funds provided in Public Law 108–287 under the heading "Operation and Maintenance, Army" for Woody Island and Historic Structure, $1,000,000 shall be made available in the form of a grant for these purposes.

LPD–17 COST ADJUSTMENT

(TRANSFER OF FUNDS)

SEC. 1018. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: *Provided further,* That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading "Shipbuilding and Conversion, Navy, 2005/2009":

LCU (X), $19,000,000.

To:

Under the heading "Shipbuilding and Conversion, Navy, 1996/2008":

LPD–17, $19,000,000:

Provided further, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROHIBITION ON COMPETITION OF THE NEXT GENERATION DESTROYER (DD(X))

SEC. 1019. (a) No funds appropriated or otherwise made available by this Act, or by prior Acts, may be obligated or expended to prepare for, conduct, or implement a strategy for the acquisition

of the next generation destroyer (DD(X)) program through a winner-take-all strategy.

(b) WINNER-TAKE-ALL STRATEGY DEFINED.—In this section, the term "winner-take-all strategy", with respect to the acquisition of destroyers under the next generation destroyer program, means the acquisition (including design and construction) of such destroyers through a single shipyard.

CIVILIAN PAY

SEC. 1020. None of the funds appropriated to the Department of Defense by this Act or any other Act for fiscal year 2005 or any other fiscal year may be expended for any pay raise granted on or after January 1, 2005, that is implemented in a manner that provides a greater increase for non-career employees than for career employees on the basis of their status as career or non-career employees, unless specifically authorized by law: *Provided,* That this provision shall be implemented for fiscal year 2005 without regard to the requirements of section 5383 of title 5, United States Code: *Provided further,* That no employee of the Department of Defense shall have his or her pay reduced for the purpose of complying with the requirements of this provision.

INDUSTRIAL MOBILIZATION CAPACITY

SEC. 1021. Of the amounts appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, $12,500,000 shall be available only for industrial mobilization capacity at Rock Island Arsenal.

BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS

SEC. 1022. (a) Section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

(b) TERMINATION.—The amendment made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 403(l) of title 37, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

PROHIBITION ON CHARGES FOR MEALS

SEC. 1023. (a) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(b) EFFECTIVE DATE.—The limitation in paragraph (a) shall take effect upon enactment of this Act, and shall apply with respect to meals provided members of the Armed Forces as described in that paragraph on or after that date.

(c) TERMINATION.—The amendment made by this section shall terminate on September 30, 2005. Effective on October 1, 2005,

the provisions of section 402 of title 37, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

SEC. 1024. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total $65,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted

to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1025. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy in this Act, necessary funding will be made available for such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available in this Act may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

(d) PACIFIC FLEET AUTHORITIES.—None of the funds available to the Department of the Navy may be obligated to modify command

and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: *Provided,* That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

TRAVEL FOR FAMILY OF HOSPITALIZED SERVICEMEMBERS

SEC. 1026. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "and" at the end of subparagraph (A); and

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) either—

"(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

"(ii) is not described in clause (i), but has an injury incurred in an operation or area designated as a combat operation or combat zone, respectively, by the Secretary of Defense under section 1967(e)(1)(A) of title 38 and is hospitalized in a medical facility in the United States for treatment of that injury."; and

(2) by adding at the end the following new paragraph: "(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).".

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

"§ 411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.".

(c) FUNDING.—Funds for the provision of travel in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of travel provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) for the Operation and Maintenance, Army account.

(2) In the case of travel provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of travel provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005

by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRAVEL IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of travel provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds $20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of travel provided in such fiscal year under such section 411h by reason of the amendments made by this section.

(e) TERMINATION.—The amendment made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 411h of title 37, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

PROHIBITION ON TERMINATION OF MULTIYEAR PROCUREMENT CONTRACT FOR C/KC–130J AIRCRAFT

SEC. 1027. No funds in this Act may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC–130J aircraft that is in effect on the date of the enactment of this Act.

PURPLE HEART COMMENDATIONS

SEC. 1028. None of the funds in this Act or prior Acts may be used to revoke Purple Heart commendations awarded to members of the Armed Forces who have served in Operation Iraqi Freedom or Operation Enduring Freedom: *Provided,* That the Secretary of any military department may, on a case-by-case basis, waive this provision fifteen days after notifying the congressional defense committees of their intent to revoke an individual's Purple Heart commendation.

VIRTUAL TRAINING COCKPIT OPTIMIZATION PROGRAM

(TRANSFER OF FUNDS)

SEC. 1029. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: *Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading "Aircraft Procurement, Army, 2004/2006", $2,000,000.

To:

Under the heading "Research, Development, Test and Evaluation, Army, 2004/2005", $2,000,000:

Provided further, That these funds may only be used for the Virtual Training Cockpit Optimization Program: *Provided further,* That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant

to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TRANSFER OF FUNDS FOR FORCE PROTECTION PROGRAMS

(TRANSFER OF FUNDS)

SEC. 1030. Notwithstanding any other provision of law, upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds previously made available in the Department of Defense Appropriations Act, 2005 (Public Law 108–287): *Provided*, That the amounts transferred shall be made available for the same purpose and the same time period as the appropriation to which transferred: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amounts shall be transferred between the following appropriations, in the amounts specified:

To:

Under the heading "Research, Development, Test and Evaluation, Air Force, 2005/2006", $500,000.

From:

Under the heading "Other Procurement, Air Force", $500,000.

To:

Under the heading "Other Procurement, Air Force, 2005/2007", $8,200,000.

From:

Under the heading "Other Procurement, Navy, 2005/2007", $8,200,000:

Provided further, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 1031. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

TRAUMATIC INJURY PROTECTION

SEC. 1032. TRAUMATIC INJURY PROTECTION. (a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

"(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

"(A) Bathing.

"(B) Continence.

"(C) Dressing.

"(D) Eating.

"(E) Toileting.

"(F) Transferring."; and

(2) by adding at the end the following:

"§ 1980A. Traumatic injury protection

"(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

"(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against such traumatic injuries, as prescribed by the Secretary, in collaboration with the Secretary of Defense, including, but not limited to—

"(A) total and permanent loss of sight;

"(B) loss of a hand or foot by severance at or above the wrist or ankle;

"(C) total and permanent loss of speech;

"(D) total and permanent loss of hearing in both ears;

"(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

"(F) quadriplegia, paraplegia, or hemiplegia;

"(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

"(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

"(2) For purposes of this subsection—

"(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

"(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

"(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

"(3) The Secretary, in collaboration with the Secretary of Defense, shall prescribe, by regulation, the conditions under which coverage against loss will not be provided.

"(c) A payment under this section may be made only if—

"(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

"(2) the loss results directly from that traumatic injury and from no other cause; and

"(3) the member suffers the loss before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

"(d) Payments under this section for losses described in subsection (b)(1) shall be—

"(1) made in accordance with a schedule prescribed by the Secretary, in collaboration with the Secretary of Defense;

"(2) based on the severity of the covered condition; and

"(3) in an amount that is equal to not less than $25,000 and not more than $100,000.

"(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

"(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

"(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

"(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

"(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

"(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to

the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

"(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

"(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

"(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

"(g) Payment for a loss resulting from traumatic injury will not be made if the member dies before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

"(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

"(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

"1980A. Traumatic injury protection.".

(c) RETROACTIVE PROVISION.—

(1) IN GENERAL.—Any member who experienced a traumatic injury (as described in section 1980A(b)(1) of title 38, United States Code) between October 7, 2001, and the effective date under subsection (d), is eligible for coverage provided in such section 1980A if the qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.

(2) CERTIFICATION; PAYMENT.—The Secretary of Defense shall—

(A) certify to the Office of Servicemembers' Group Life Insurance the names and addresses of those members the Secretary of Defense determines to be eligible for retroactive traumatic injury benefits under such section 1980A; and

(B) forward to the Secretary of Veterans Affairs, at the time the certification is made under subparagraph (A), an amount of money equal to the amount the Secretary of Defense determines to be necessary to pay all cost related to claims for retroactive benefits under such section 1980A.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

(2) RULEMAKING.—Before the effective date described in paragraph (1), the Secretary of Veterans Affairs, in collaboration with the Secretary of Defense, shall issue regulations to carry out the amendments made by this section.

AMOUNTS FROM PRIOR YEAR IRAQ FREEDOM FUND APPROPRIATION

(RESCISSION OF FUNDS)

SEC. 1033. Of the funds appropriated in title IX of Public Law 108–287 for "Iraq Freedom Fund" (118 Stat. 1005) that remain available for obligation, $50,000,000 is hereby rescinded.

TECHNICAL CORRECTION

SEC. 1034. Of the funds available in the Department of Defense Appropriations Act, 2005 (Public Law 108–287), under the heading "Defense Health Program", $1,000,000 shall be available to the Paralyzed Veterans of America (PVA) Outdoor Sports Heritage Fund.

DEFENSE TRANSFER AUTHORITY

SEC. 1035. In addition to amounts appropriated elsewhere in this Act, there is hereby appropriated $50,000,000 for "Research, Development, Test and Evaluation, Defense-Wide", to remain available until September 30, 2006: *Provided*, That these funds are available for transfer to any other appropriations accounts of the Department of Defense, for certain classified activities, and notwithstanding any other provision of law and of this Act, such funds may be obligated to carry out projects not otherwise authorized by law: *Provided further*, That any funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amount provided in this section is designated an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS

SEC. 1036. (a) In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

CAMP JOSEPH T. ROBINSON

SEC. 1037. The United States releases to the State of Arkansas the reversionary interest described in sections 2 and 3 of the Act entitled "An Act authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas", approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate of the land constituting Camp Joseph T. Robinson, Arkansas, which lies east of the Batesville Pike county road, in sections 24, 25, and 36, township 3 north, range 12 west, Pulaski County, Arkansas.

TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For additional expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $240,000,000 to remain available until expended: *Provided,* That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", $734,000,000, to remain available until September 30, 2006, of which $10,000,000 is provided for security requirements in the detection of explosives: *Provided,* That of the funds appropriated under this heading, not less than $250,000 shall be made available for programs to assist Iraqi and Afghan scholars who are in physical danger to travel to the United States to engage in research or other scholarly activities at American institutions of higher education: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", $592,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Contributions for International Peacekeeping Activities", $680,000,000, to remain available until September 30, 2006: *Provided,* That of the funds appropriated under this heading, up to $50,000,000 may be transferred to "Peacekeeping Operations" for support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations" for activities related to broadcasting to the broader Middle East, $4,800,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of

the conference report to accompany S. Con. Res. 95 (108th Congress).

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for "Broadcasting Capital Improvements", $2,500,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

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", $90,000,000, to remain available until expended, for emergency expenses related to the humanitarian crisis in the Darfur region of Sudan and other African countries: *Provided,* That these funds may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $24,400,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for "Operating Expenses of the United States Agency for International Development Office of Inspector General", $2,500,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", $1,433,600,000, to remain available until September 30, 2006: *Provided,* That of the funds appropriated under this heading, $200,000,000 should be made available for programs, activities, and efforts to support Palestinians, of which $50,000,000 should be made available for assistance for Israel to help ease the movement of Palestinian people and goods in and out of Israel: *Provided further,* That of the funds appropriated under this heading, $5,000,000 should be made available for assistance for displaced persons in Afghanistan: *Provided further,* That of the funds appropriated under this heading, $2,500,000 should be made available for assistance for families and communities of Afghan civilians who have suffered losses as a result of the military operations: *Provided further,* That of the funds appropriated under this heading, $20,000,000 should be made available for assistance for Haiti, of which $2,500,000 should be made available for criminal case management, case tracking, and the reduction of pre-trial detention in Haiti, notwithstanding any other provision of law: *Provided further*, That of the funds appropriated under this heading, $5,000,000 should be made available for programs and activities to promote democracy, including political party development, in Lebanon: *Provided further,* That of the funds appropriated under this heading, up to $10,000,000 may be transferred to the Overseas Private Investment Corporation for the cost of direct and guaranteed loans as authorized by section 234 of the Foreign Assistance Act of 1961: *Provided further,* That such costs, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For an additional amount for "Assistance for the Independent States of the Former Soviet Union", $70,000,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", $620,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $120,400,000, to remain available until September 30, 2006: *Provided,* That of the funds appropriated under this heading, not less than $67,000,000 shall be made available for assistance for refugees in Africa and to fulfill refugee protection goals set by the President for fiscal year 2005: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $24,600,000, to remain available until September 30, 2006, of which not to exceed $7,500,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", $250,000,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $240,000,000, to remain available until September 30, 2006, of which up to $200,000,000 is for military and other security assistance to coalition partners in Iraq and Afghanistan: *Provided,* That up to $30,000,000 may be used only pursuant to a determination by the President, and after consultation with the Committees on Appropriations, that such use will support the global war on terrorism: *Provided further,* That these funds may be transferred by the Secretary of State to other Federal agencies or accounts to support the global war on terrorism: *Provided further,* That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

VOLUNTARY CONTRIBUTION

SEC. 2101. Section 307(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), is further amended by striking "Iraq,".

(RESCISSION OF FUNDS)

SEC. 2102. The unexpended balance appropriated by Public Law 108–11 under the heading "Economic Support Fund" and made available for Turkey is rescinded.

AUDIT REQUIREMENT

SEC. 2103. Section 559 of division D of Public Law 108–447 is amended by adding at the end the following:

"(e) Subsequent to the certification specified in subsection (a), the Comptroller General of the United States shall conduct an audit and an investigation of the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2005 under the heading 'Economic Support Fund'. The audit shall address—

"(1) the extent to which such Program complies with the requirements of subsections (b) and (c), and

"(2) an examination of all programs, projects, and activities carried out under such Program, including both obligations and expenditures.".

REPORTING REQUIREMENT

SEC. 2104. The Secretary of State shall submit to the Committees on Appropriations not later than 30 days after enactment, and prior to the initial obligation of funds appropriated under this chapter, a report on the proposed uses of all funds on a project-by-project basis, for which the obligation of funds is anticipated: *Provided*, That up to 15 percent of funds appropriated under this chapter may be obligated before the submission of the report subject to the normal notification procedures of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any new projects and increases in funding of ongoing projects shall be subject to the prior approval of the Committees on Appropriations: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations, not later than 210 days following enactment of this Act and annually thereafter, a report detailing on a project-by-project basis the expenditure of funds appropriated under this chapter until all funds have been fully expended.

AUDIT REQUIREMENT

SEC. 2105. The Comptroller General of the United States shall conduct an audit of the use of all funds for the bilateral Afghanistan counternarcotics and alternative livelihood programs in fiscal year

2005 under the heading "Economic Support Fund" and "International Narcotics Control and Law Enforcement": *Provided*, That the audit shall include an examination of all programs, projects and activities carried out under such programs, including both obligations and expenditures.

REPORTING REQUIREMENT

SEC. 2106. Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress detailing: (1) information regarding the Palestinian security services, including their numbers, accountability, and chains of command, and steps taken to purge from their ranks individuals with ties to terrorist entities; (2) specific steps taken by the Palestinian Authority to dismantle the terrorist infrastructure, confiscate unauthorized weapons, arrest and bring terrorists to justice, destroy unauthorized arms factories, thwart and preempt terrorist attacks, and cooperate with Israel's security services; (3) specific actions taken by the Palestinian Authority to stop incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and to promote peace and coexistence with Israel; (4) specific steps the Palestinian Authority has taken to further democracy, the rule of law, and an independent judiciary, and transparent and accountable governance; (5) the Palestinian Authority's cooperation with United States officials in investigations into the late Palestinian leader Yasser Arafat's finances; and (6) the amount of assistance pledged and actually provided to the Palestinian Authority by other donors: *Provided,* That not later than 180 days after enactment of this Act, the President shall submit to the Congress an update of this report: *Provided further,* That up to $5,000,000 of the funds made available for assistance for the West Bank and Gaza by this chapter under "Economic Support Fund" shall be used for an outside, independent evaluation by an internationally recognized accounting firm of the transparency and accountability of Palestinian Authority accounting procedures and an audit of expenditures by the Palestinian Authority.

REPROGRAMMING AUTHORITY

SEC. 2107. The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the fiscal year 2005 Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (Public Law 108–447, division B) may be subject to reprogramming pursuant to section 605 of that Act.

MARLA RUZICKA IRAQI WAR VICTIMS FUND

SEC. 2108. Of the funds appropriated by chapter 2 of title II of Public Law 108–106 under the heading "Iraq Relief and Reconstruction Fund", not less than $20,000,000 should be made available for assistance for families and communities of Iraqi civilians who have suffered losses as a result of the military operations: *Provided,* That such assistance shall be designated as the "Marla Ruzicka Iraqi War Victims Fund".

CANDIDATE COUNTRIES

SEC. 2109. Section 616(b)(1) of the Millennium Challenge Act of 2003 (Public Law 108–199) is amended—

(1) by striking "subparagraphs (A) and (B) of section 606(a)(1)"; and

(2) inserting in lieu thereof "subsection (a) or (b) of section 606".

HUMANITARIAN ASSISTANCE CODE OF CONDUCT

SEC. 2110. (a) None of the funds made available for foreign operations, export financing, and related programs under the headings "Migration and Refugee Assistance", "United States Emergency Refugee and Migration Assistance Fund", "International Disaster and Famine Assistance", or "Transition Initiatives" may be obligated to an organization that fails to adopt a code of conduct that provides for the protection of beneficiaries of assistance under any such heading from sexual exploitation and abuse in humanitarian relief operations.

(b) The code of conduct referred to in subsection (a) shall, to the maximum extent practicable, be consistent with the six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises.

(c) Not later than 180 days after the date of the enactment of this Act, and not later than one year after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the implementation of this section.

(d) This section shall take effect 60 days after the date of the enactment of this Act and shall apply to funds obligated after such date for fiscal year 2005 and any subsequent fiscal year.

JOINT EXPLANATORY STATEMENT

SEC. 2111. (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the joint explanatory statement of managers accompanying this Act:

"Economic Support Fund"; and

"Assistance for the Independent States of the Former Soviet Union".

(b) Any proposed increases or decreases to the amounts contained in such tables in the joint explanatory statement of managers shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TITLE III—DOMESTIC APPROPRIATIONS FOR THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF ENERGY

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for "Defense Nuclear Nonproliferation", $84,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $124,425,000, to remain available until September 30, 2006, for hiring, training, supporting, and equipping 500 border patrol agents above the level funded in Public Law 108–334: *Provided,* That the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2005, with a plan for the expeditious implementation and execution of these funds: *Provided further,* That of the amount provided under this heading, $49,075,000 is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CONSTRUCTION

For an additional amount for "Construction", $51,875,000, to remain available until September 30, 2006: *Provided,* That the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2005, with a plan for the expeditious implementation and execution of these funds: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $454,250,000, of which not less than $11,000,000 shall be available for the costs of increasing by no less than seventy-nine the level of full-time equivalents on board on the date of enactment of this

Act: *Provided,* That of the total amount provided, $178,250,000 is available until September 30, 2006, of which $93,050,000 is for new investigators, enforcement agents, detention officers, and detention bedspace: *Provided further,* That the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2005, with a plan for the expeditious implementation and execution of these funds: *Provided further,* That of the amount provided under this heading, $349,050,000 is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $111,950,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements", $49,200,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $2,568,000, to remain available until September 30, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for "Acquisition, Construction, Improvements, and Related Expenses", $1,882,000, to remain available until September 30, 2006.

CHAPTER 3

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

DETENTION TRUSTEE

For an additional amount for "Detention Trustee", $184,000,000, for necessary expenses of the Federal Detention Trustee: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the unobligated balances available under this heading, $40,000,000 are rescinded.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $11,935,000, for increased judicial security outside of courthouse facilities, including home intrusion detection systems for Federal judges, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $73,991,000, to remain available until September 30, 2006: *Provided,* That of the amount appropriated, $1,250,000 shall be transferred to and merged with the appropriation for "Department of Justice, General Administration, Office of Inspector General": *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $7,648,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $4,000,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Doris K. Matsui, widow of Robert T. Matsui, late a Representative from the State of California, $162,100.

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the House of Representatives, $39,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ADMINISTRATIVE PROVISIONS

HOUSE SERVICES REVOLVING FUND

SEC. 3401. (a) Section 103(b) of the Legislative Branch Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3175) is amended to read as follows:

"(b) USE OF FEES.—Any amounts paid as fees for the use of the exercise facility described in subsection (a) shall be deposited into the House Services Revolving Fund established under section 105.".

(b) Section 105(a) of such Act (2 U.S.C. 117m(a)) is amended by adding at the end the following new paragraph:

"(5) The payment of fees for the use of the exercise facility described in section 103(a).".

(c) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2005.

TECHNICAL CORRECTIONS

SEC. 3402. (a) The last proviso under the heading "LIBRARY OF CONGRESS—Salaries and Expenses" in chapter 9 of division A of the Miscellaneous Appropriations Act, 2001, as enacted into law by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (2 U.S.C. 132b note), is amended by striking "chair of the Subcommittee on the Legislative Branch of the Committee on Appropriations of the House of Representatives" and inserting "chair of the Committee on Appropriations of the House of Representatives (or another member of such Committee designated by the chair)".

(b) Section 313(a)(2)(E) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151(a)(2)(E)), as added by section 1502 of the Legislative Branch Appropriations Act, 2005 (Public Law 108–447), is amended by striking "chair of the Subcommittee on Legislative Branch of the Committee on Appropriations of the House of Representatives" and inserting "chair of the Committee on Appropriations of the House of Representatives (or another member of such Committee designated by the chair)".

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for necessary expenses of the Capitol Police, $11,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ARCHITECT OF THE CAPITOL

CAPITOL GROUNDS

For an additional amount for "Capitol Grounds", $8,200,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CAPITOL POLICE BUILDINGS AND GROUNDS

For an additional amount for "Capitol Police Buildings and Grounds", $4,100,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

CHAPTER 1

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

TSUNAMI RECOVERY AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Foreign Assistance Act of 1961, for emergency relief, rehabilitation, and reconstruction aid to countries affected by the tsunami and earthquakes of December 2004 and March 2005, and the Avian influenza virus, $656,000,000, to remain available until September 30, 2006: *Provided,* That these funds may be transferred by the Secretary of State to Federal agencies or accounts for any activity authorized under part I (including chapter 4 of part II) of the Foreign Assistance Act, or under the Agricultural Trade Development and Assistance Act of 1954, to accomplish the purposes provided herein: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That funds appropriated under this heading may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided

under this heading prior to enactment of this Act, including Public Law 480 Title II grants: *Provided further,* That of the amounts provided herein: up to $10,000,000 may be transferred to and consolidated with "Development Credit Authority" for the cost of direct loans and loan guarantees as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961 in furtherance of the purposes of this heading; up to $17,500,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development", of which up to $2,000,000 may be used for administrative expenses to carry out credit programs administered by the United States Agency for International Development in furtherance of the purposes of this heading; up to $1,000,000 may be transferred to and consolidated with "Operating Expenses of the United States Agency for International Development Office of Inspector General"; and up to $5,000,000 may be transferred to and consolidated with "Emergencies in the Diplomatic and Consular Service" for the purpose of providing support services for United States citizen victims and related operations: *Provided further,* That of the funds appropriated under this heading, $5,000,000 should be made available for environmental recovery activities in tsunami affected countries: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for programs and activities which create new economic opportunities for women: *Provided further,* That of the funds appropriated under this heading, $1,500,000 should be made available for programs to address the needs of people with physical and mental disabilities resulting from the tsunami: *Provided further*, That of the funds appropriated under this heading, not less than $12,500,000 should be made available to support initiatives that focus on the immediate and long-term needs of children for protection and permanency, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth: *Provided further*, That of the funds appropriated under this heading, $20,000,000 should be made available for microenterprise development programs in countries affected by the tsunami, of which $5,000,000 should be made available for microcredit programs, to be administered by the United States Agency for International Development: *Provided further,* That of the funds appropriated under this heading, $1,500,000 should be made available for trafficking in persons monitoring and prevention programs and activities in tsunami affected countries: *Provided further,* That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004 and March 2005, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka: *Provided further,* That funds appropriated under this heading may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: *Provided further,* That such amounts shall not be considered "assistance" for the purposes of provisions of law limiting assistance to any such affected country:

Provided further, That any agreement to defer and reschedule such debt will include a commitment by the recipient government that resources freed by the debt deferral will benefit directly the people affected by the tsunami: *Provided further,* That the Secretary of State shall arrange for an outside, independent evaluation of each government's compliance with the commitment: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

ANNUAL LIMITATION

SEC. 4101. Amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2292a), to address relief and rehabilitation needs for countries affected by the Indian Ocean tsunami and earthquakes of December 2004 and March 2005, prior to the enactment of this Act, shall be in addition to the amount that may be obligated in fiscal year 2005 under that section.

REPORTING REQUIREMENT

SEC. 4102. The Secretary of State shall submit to the Committees on Appropriations not later than 30 days after enactment, and prior to the initial obligation of funds appropriated under this chapter not used to reimburse accounts for obligations made prior to enactment, a report on the proposed uses of all funds on a project-by-project basis, for which such initial obligation of funds is anticipated: *Provided*, That up to 15 percent of funds appropriated under this chapter may be obligated before the submission of the report subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations, not later than 210 days following enactment of this Act, and every six months thereafter, a report detailing on a project-by project basis, the expenditure of funds appropriated under this chapter until all funds have been fully expended.

AUTHORIZATION OF FUNDS

SEC. 4103. Funds appropriated by this Act may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), section 10 of Public Law 91–672 (22 U.S.C. 2412), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

AVIAN INFLUENZA VIRUS

SEC. 4104. Of the funds appropriated under this chapter, $25,000,000 shall be made available for a coordinated program to prevent and control the spread of the Avian influenza virus: *Provided,* That not less than $15,000,000 of such funds should be transferred to the Centers for Disease Control and Prevention: *Provided further,* That prior to the obligation of such funds, the Centers for Disease Control and Prevention shall consult with the United States Agency for International Development on the proposed use of such funds: *Provided further,* That funds made available by this section and transferred to the Centers for Disease Control and Prevention shall be for necessary expenses to carry out Titles III and XXIII of the Public Health Service Act.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $124,100,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $2,800,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $30,000,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $29,150,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for "Overseas Humanitarian, Disaster, and Civic Aid", $36,000,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to

section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $3,600,000 for Operation and maintenance: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $350,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $8,100,000, to remain available until September 30, 2006: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $7,070,000, to remain available until September 30, 2006, for United States tsunami warning capabilities and operations: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $10,170,000, to remain available until September 30, 2007, for United States tsunami warning capabilities: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE V—OTHER EMERGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair damages to waterways and watersheds resulting from natural disasters, $104,500,000, to remain available until expended: *Provided,* That the above amount includes funding for eligible work identified in the Emergency Watershed Program Recovery Projects Unfunded list as of April 25, 2005: *Provided further,* That notwithstanding any other provision of law, the Secretary of Agriculture shall count local financial and technical resources, including in-kind materials and services, contributed toward recovery from the flooding events of January 2005 in Washington County, Utah, toward local matching requirements for the emergency watershed protection program assistance provided to Washington County, Utah: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

RURAL HOUSING SERVICE

SEC. 5101. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture may transfer any unobligated amounts made available under the heading "Rural Housing Service", "Rural Housing Insurance Fund Program Account" in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) to the Rural Housing Service "Rental Assistance Program" account for projects in North Carolina: *Provided,* That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RURAL HOUSING ASSISTANCE GRANTS

SEC. 5102. Notwithstanding any other provision of law, the Secretary of Agriculture shall consider the Village of New Miami, Ohio, a rural area for purposes of eligibility for grants funded through the Rural Housing Assistance Grants account.

WATERSHED PROJECTS IN WEST VIRGINIA

SEC. 5103. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108–447) for the Lost River Watershed project, West Virginia, $4,000,000 may be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 36).

FARM SERVICE AGENCY

SEC. 5104. The funds made available in section 786 of title VII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 as contained in division A of the Consolidated Appropriations Act, 2005 (Public Law 108–447) may be applied to accounts of Alaska dairy farmers owed to the Secretary of Agriculture.

CHAPTER 2

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Departmental Management", $3,000,000 to support deployment of business systems to the bureaus and offices of the Department of the Interior, including the Financial and Business Management System: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance", $24,390,000, to remain available until expended, to repair damages to national forest facilities and lands caused by severe storms in southern California: *Provided,* That such funds shall be available to perform repair activities including, but not limited to, restoration of roads, trails and facilities; removal of landslides; drainage protection; waste removal; and stream stabilization: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING RESCISSIONS OF FUNDS)

For an additional amount for the "Public Health and Social Services Emergency Fund" in title II of Public Law 108–447, $10,000,000, to remain available until expended, for an infrastructure grant to improve the supply of domestically produced vaccine: *Provided,* That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress): *Provided further,* That under the heading "Health Resources and Services Administration, Health Resources and Services", the unobligated balance for the Health Professions Teaching Facilities Program authorized in sections 726 and 805 of the Public Health Service Act; the unobligated balance of the Health Teaching Construction Interest Subsidy Program authorized in section 726 and title XVI of the Public Health Service Act; and the unobligated balance of the AIDS Facilities Renovation and Support Program authorized in title XVI of the Public Health Service Act are all hereby rescinded: *Provided further,* That under the heading "Office of the Secretary, Office of the Inspector General", the unobligated balance of the Medicaid Fraud Control Program authorized in section 1903 of the Social Security Act and appropriated to the Office of the Inspector General in the Department of Health and Human Services is hereby rescinded: *Provided further,* That under the heading "Assistant Secretary for Health Scientific Activities Overseas (Special Foreign Currency Program)" the unobligated balance of the Scientific Activities Overseas (Special Foreign Currency Program) account within the Department of Health and Human Services is hereby rescinded.

For an additional amount for the "Public Health and Social Services Emergency Fund" in title II of Public Law 108–447, $58,000,000, to remain available until expended, to be transferred to the Centers for Disease Control and Prevention for the purchase of influenza countermeasures for the Strategic National Stockpile: *Provided,* That $58,000,000 appropriated by section 1897(g) of the Social Security Act, as added by section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) is rescinded.

CHAPTER 4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING FOR PERSONS WITH DISABILITIES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 108–447, $238,080,000 are rescinded.

For an additional amount for "Housing for Persons with Disabilities", $238,080,000, to remain available until September 30, 2006: *Provided,* That these funds shall be available under the same terms and conditions as authorized for funds under this heading in Public Law 108–447.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Office of Federal Housing Enterprise Oversight" for carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, $5,000,000 to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund but not any funds collected under section 1316(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4516(c)): *Provided*, That notwithstanding section 1316(d) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, any funds collected under section 1316(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 shall not be credited for fiscal year 2006 as surplus under section 1316(d) of such Act or as part of any assessment to be collected for fiscal year 2006 under section 1316(a) of such Act: *Provided further*, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further,* That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than $0.

TITLE VI—GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

AVAILABILITY OF FUNDS

SEC. 6001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

REFERENCES TO EMERGENCY REQUIREMENTS

SEC. 6002. Any reference in this Act to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress) shall be treated as a reference to the emergency legislation section of H. Con. Res. 95 (109th Congress), if H. Con. Res. 95 (109th Congress) is adopted prior to the enactment of this Act.

RURAL BUSINESS-COOPERATIVE SERVICE

SEC. 6003. None of the funds made available by this or any other Act may be used to deny the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

MC CLELLAN KERR NAVIGATION SYSTEM ADVANCED OPERATIONS AND MAINTENANCE

SEC. 6004. The last proviso under the heading "Operation and Maintenance" in title I of division C of Public Law 108–447 is amended by striking "Public Law 108–357" and inserting "Public Law 108–137".

ENVIRONMENTAL INFRASTRUCTURE

SEC. 6005. Section 101 of title I of division C of Public Law 108–447 is amended by striking "per project" and all that follows through the period at the end and inserting "for all applicable programs and projects not to exceed $80,000,000 in each fiscal year.".

DE SOTO COUNTY, MISSISSIPPI

SEC. 6006. Section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) is amended by striking "$20,000,000" and inserting "$55,000,000" in lieu thereof, and by striking "treatment" and inserting "infrastructure" in lieu thereof: *Provided,* That the Secretary is authorized and directed to reimburse the non-Federal local sponsor of the project described in section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) for costs incurred between May 13, 2002, and September 30, 2005, in excess of the required non-Federal share if the Secretary determines that such costs were incurred for work that is compatible with and integral to the project: *Provided further,* That the non-Federal local sponsor, at its option, may choose to accept, in lieu of reimbursement, a credit against the non-Federal share of project cost incurred after May 13, 2002.

FORT PECK FISH HATCHERY, MONTANA

SEC. 6007. Section 325(f)(1)(A) of Public Law 106–541 is modified by striking "$20,000,000" and inserting in lieu thereof "$25,000,000".

INTERCOASTAL WATERWAY, DELAWARE RIVER TO CHESAPEAKE BAY, SR–1 BRIDGE, DELAWARE

SEC. 6008. The first proviso under the heading "Operation and Maintenance" in title I of division C of Public Law 108–447 is amended by striking "October 1, 2003, and September 30, 2004" and inserting "October 1, 2004, and September 30, 2005".

OFFSHORE OIL AND GAS FABRICATION PORTS

SEC. 6009. In determining the economic justification for navigation projects involving offshore oil and gas fabrication ports, the Secretary of the Army, acting through the Chief of Engineers, is directed to measure and include in the National Economic Development calculation the value of future energy exploration and production fabrication contracts and transportation cost savings that would result from larger navigation channels.

ENVIRONMENTAL INFRASTRUCTURE

SEC. 6010. In division C, title I of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to Corps of Engineers—Civil, Construction, General, is amended by inserting before the period at the end the following: ": *Provided further,* That of the funds made available herein for Ohio Environmental Infrastructure, $500,000 shall be used for the Liberty Little Squaw Creek sewer upgrade and $1,000,000 shall be used for the Lake County, Concord Township sanitary sewer line improvement: *Provided further,* That of the funds made available herein, $350,000 shall be used to complete design for the St. Croix Falls, Wisconsin, wastewater infrastructure project".

INDIANA HARBOR, INDIANA

SEC. 6011. The Secretary of the Army, acting through the Chief of Engineers, is directed to complete, at full Federal expense, the Indiana Harbor and Canal, Confined Disposal Facility, Indiana, currently under construction.

SEMINOLE TRIBE, BIG CYPRESS PROJECT

SEC. 6012. Section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3769; 113 Stat. 286) is amended by adding the following:

"(5) The Seminole Tribe of Florida shall receive a mitigation credit for 50 percent of the net wetland benefits derived within the footprint of the Big Cypress Seminole Reservation Water Conservation Plan Project. Such credit may be used to meet the mitigation requirements of section 404 of the Clean Water Act as they may apply to future projects proposed by the Seminole Tribe of Florida.".

SAN GABRIEL BASIN RESTORATION

SEC. 6013. (a) The matter under the heading "Water and Related Resources" in title II of division C of Public Law 108–447 is amended by inserting before the period at the end the following: ": *Provided further*, That $4,023,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted into law by Public Law 106–554)".

(b) Section 110(a)(3)(A)(ii) of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4) of Public Law 106–554) as amended is further amended by inserting the words "and maintain" after the word "operate".

SILVERY MINNOW OFF-CHANNEL SANCTUARIES

SEC. 6014. The Secretary of the Interior is authorized to perform such analyses and studies as needed to determine the viability of establishing an off-channel sanctuary for the Rio Grande Silvery Minnow in the Middle Rio Grande Valley. In conducting these studies, the Secretary shall take into consideration:

(1) providing off-channel, naturalistic habitat conditions for propagation, recruitment, and maintenance of Rio Grande silvery minnows; and

(2) minimizing the need for acquiring water or water rights to operate the sanctuary.

If the Secretary determines the project to be viable, the Secretary is further authorized to design and construct the sanctuary and to thereafter operate and maintain the sanctuary. The Secretary may enter into grant agreements, cooperative agreements, financial assistance agreements, interagency agreements, and contracts with Federal and non-Federal entities to carry out the purposes of this Act.

DESALINATION ACT EXTENSION

SEC. 6015. Section 8 of Public Law 104–298 (The Water Desalination Act of 1996) (110 Stat. 3624) as amended by section 210 of Public Law 108–7 (117 Stat. 146) is amended by—

(1) in paragraph (a) by striking "2004" and inserting in lieu thereof "2005"; and

(2) in paragraph (b) by striking "2004" and inserting in lieu thereof "2005".

ENERGY SUPPLY

SEC. 6016. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Department of Energy, Energy Programs, Energy Supply" is amended by inserting before the period at the end the following: ": *Provided,* That $2,000,000 is made available for the National Center for Manufacturing Sciences in Michigan: *Provided further,* That $825,000 is made available for research and development in California to advance the state of metal hydride hydrogen storage".

OFFICE OF SCIENCE

SEC. 6017. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Department of Energy, Energy Programs, Science" is amended by inserting ": *Provided,* That $2,000,000 is provided within available funds to continue funding for project #DE–FG0204ER63842–04090945, the Southeast Regional Cooling, Heating and Power and Bio-Fuel Application Center, and $3,000,000 is provided from within available funds for the University of Texas Southwestern Medical Center, University of Texas at Dallas Metroplex Comprehensive Imaging Center: *Provided further,* That within funds made available herein $500,000 is provided for the desalination plant technology program at the University of Nevada-Reno (UNR) and $500,000 for the Oral History of the Negotiated Settlement project at UNR: *Provided further,* That $4,000,000 is to be provided from within available funds to the Fire Sciences Academy in Elko, Nevada, for purposes of capital debt service: *Provided further,* That $2,000,000 is made available within available funds to upgrade chemistry laboratories at Drew University, New Jersey" after "$3,628,902,000".

FOSSIL ENERGY

SEC. 6018. In division E, title II of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to "Department of Energy, Fossil Energy Research and Development" is amended by inserting before the period at the end the following: ": *Provided further,* That $1,000,000 is made available for the

National Energy Technology Laboratory in Pennsylvania to work with the Borough of Versailles, Pennsylvania, to remediate leaks from abandoned natural gas wells".

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

SEC. 6019. Notwithstanding the provisions of section 302 of Public Law 102–377 and section 4705 of Public Law 107–314, as amended, the Department may transfer up to $10,000,000 from the Weapons Activities appropriation for purposes of carrying out section 3147 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375: *Provided,* That $825,000 is made available for cybersecurity at Department of Energy laboratories using the CimTrak technology.

DEFENSE ENVIRONMENTAL SERVICES

SEC. 6020. Title III of division C of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by inserting before the period at the end of "Defense Environmental Services" the following: ": *Provided,* That to the extent activities to be funded within the 'Defense Environmental Services' cannot be funded without unduly impacting mission activities and statutory requirements, up to $30,000,000 from 'Defense Site Acceleration Completion' may be used for these activities: *Provided further,* That $2,000,000 is provided within available funds to support desalination activities in partnership with the Bureau of Reclamation at the Tularosa Basin desalination facility, New Mexico".

DEFENSE SITE ACCELERATION COMPLETION TRANSFER TO WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

SEC. 6021. Notwithstanding the provisions of section 302 of Public Law 102–377 and section 4705 of Public Law 107–314, as amended, the Department may transfer up to $4,000,000 from the "Defense Site Acceleration Completion" appropriation to "Weapons Activities" appropriation contained in the Consolidated Appropriations Act, 2005 (Public Law 108–447), division C—Energy and Water Development.

SMALL BUSINESS CONTRACTING

SEC. 6022. (a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

(b) The methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

(1) a method of counting the achievement of the Department of Energy in awards of—

(A) prime contracts; and

(B) subcontracts to small businesses awarded by Department of Energy management and operating,

management and integration, and other facility management prime contractors; and

(2) uniform criteria that could be used by prime contractors when measuring the value and number of subcontracts awarded to small businesses.

(c)(1) Not later than September 30, 2005, the Administrator of the Small Business Administration, the Chief Counsel for Advocacy of the Small Business Administration, the Chairman of the Defense Nuclear Facilities Safety Board, the Secretary of Energy, and the Administrator of the National Nuclear Security Administration, shall jointly conduct a study regarding the feasibility of possible changes to management and operating contracts and other management contracts within the Department of Energy to encourage new opportunities for small businesses to increase their role as prime contractors.

(2) In conducting the study under paragraph (1), the Administrator of the Small Business Administration, the Chief Counsel for Advocacy of the Small Business Administration, the Chairman of the Defense Nuclear Facilities Safety Board, the Secretary of Energy, and the Administrator of the National Nuclear Security Administration shall jointly consider the impact of changes studied on—

(A) accountability, competition, and sound management practices at the Department of Energy and its facilities managed by prime contractors;

(B) safety, security, and oversight of Department of Energy facilities; and

(C) the potential oversight and management requirements necessary to implement the findings of the study.

(3) The Administrator of the Small Business Administration, the Chief Counsel for Advocacy of the Small Business Administration, the Chairman of the Defense Nuclear Facilities Safety Board, the Secretary of Energy, and the Administrator of the National Nuclear Security Administration shall report their joint findings to—

(A) the Committee on Small Business and Entrepreneurship, the Committee on Energy and Natural Resources, the Committee on Armed Services, the Committee on Homeland Security and Government Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Small Business, the Committee on Energy and Commerce, the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.

(d)(1) Beginning on the date of enactment of this Act and ending at the conclusion of fiscal year 2007, in any case in which the Secretary of Energy decides to break-out appropriate large prime contracts, known as the management and operating contracts, for award to small businesses, the Secretary shall consider whether—

(A) the services under the contract have previously been provided by a small business concern; and

(B) the contract is of the type capable of being performed by a small business concern.

(2) In the case of a contract awarded by the Department of Energy as a result of a break-out of subcontracts previously awarded

by management and operating prime contractors and reawarded as a small business prime contract under paragraph (1)—

(A) any such contract valued at more than $25,000,000 shall be required to have a subcontracting plan for small businesses; and

(B) the Secretary shall make a determination on the advisability of requiring a local presence for small business subcontractors.

NUCLEAR WASTE DISPOSAL

SEC. 6023. Title III of division C of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2951) is amended in the matter under the heading "Nuclear Waste Disposal"—

(1) by inserting "to be derived from the Nuclear Waste Fund and" after "$346,000,000,"; and

(2) in the second proviso, by striking "to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act" and inserting "to participate in licensing activities and other appropriate activities pursuant to that Act".

DEPARTMENT OF HOMELAND SECURITY

WORKING CAPITAL FUND

SEC. 6024. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the "Department of Homeland Security Working Capital Fund", except for the activities for fiscal year 2005 contained in the April 11, 2005, report submitted to the Committees on Appropriations of the Senate and the House of Representatives on the Department of Homeland Security Working Capital Fund, and all activities and services funded by the Federal Emergency Management Agency "Working Capital Fund" before March 1, 2003: *Provided,* That all organizations shall be charged only for direct usage of each service: *Provided further,* That for fiscal year 2005, funding for activities shall not exceed the amounts listed in the Department of Homeland Security Working Capital Fund April 11, 2005, report: *Provided further,* That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 6025. The Department of Homeland Security shall henceforth provide an appropriations justification for the "Department of Homeland Security Working Capital Fund" to the Committees on Appropriations of the Senate and House of Representatives: *Provided,* That an annual appropriations justification shall be submitted to the Congress as a part of the President's budget as submitted under Section 1105(a) of Title 31, United States Code, and shall contain the same level of detail as the Department's Congressional appropriations justification in support of the President's budget: *Provided further,* That the "Department of Homeland Security Working Capital Fund" Congressional appropriations justification for fiscal year 2006 shall be submitted within 15 days of enactment of this Act: *Provided further,* That the Chief Financial Officer shall ensure that all planned activities and amounts to be funded by the "Department of Homeland Security Working Capital Fund", all reimbursable agreements, and all uses of the

Economy Act are explicitly identified in each Congressional appropriations justification in support of the President's budget provided for each agency and component of the Department.

OFFICE OF THE CHIEF INFORMATION OFFICER

SEC. 6026. Of the funds provided under the heading "Office of the Chief Information Officer" in Public Law 108–334, $5,000,000 shall not be obligated for salaries and expenses until an expenditure plan is submitted to the Committees on Appropriations of the Senate and the House of Representatives for any information technology project that: (1) is funded by the "Office of the Chief Information Officer"; or (2) is funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided,* That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by project: *Provided further,* That the expenditure plan shall include a complete list of all legacy systems operational as of March 1, 2003, the current operational status of each system, and the plans for continued operation or termination of each system.

RESCISSION OF FUNDS

SEC. 6027. Of the funds appropriated by Public Law 108–334 (118 Stat. 1298, 1300, 1302), the following are rescinded: $500,000 under the heading "Office of the Secretary and Executive Management"; $3,300,000 under the heading "Office of the Under Secretary for Management"; $76,000,000 under the heading "Customs and Border Protection, Salaries and Expenses"; and $85,200,000 under the heading "Immigration and Customs Enforcement, Salaries and Expenses".

SEC. 6028. Of the unobligated balances available in the "Department of Homeland Security Working Capital Fund", $20,000,000 are rescinded.

REPROGRAMMING AND TRANSFER OF FUNDS

SEC. 6029. Any funds made available to the Department of Homeland Security by this Act shall be subject to the terms and conditions of Title V of Public Law 108–334.

BUREAU OF LAND MANAGEMENT, TECHNICAL CORRECTION

SEC. 6030. Section 144 of division E of Public Law 108–447 is amended in paragraph (b)(2) by striking "September 24, 2004" and inserting "November 12, 2004".

FOREST SERVICE TRANSFER

SEC. 6031. Funds in the amount of $1,500,000, provided in Public Law 108–447 for the "Forest Service, Capital Improvement and Maintenance" account, are hereby transferred to the "Forest Service, State and Private Forestry" account.

WEST YELLOWSTONE VISITOR INFORMATION CENTER

SEC. 6032. Notwithstanding any other provision of law, the National Park Service is authorized to expend appropriated funds

for the construction, operations and maintenance of an expansion to the West Yellowstone Visitor Information Center to be constructed for visitors to, and administration of, Yellowstone National Park.

PESTICIDES TOLERANCE FEES

SEC. 6033. None of the funds in this or any other Appropriations Act may be used by the Environmental Protection Agency or any other Federal agency to develop, promulgate, or publish a pesticides tolerance fee rulemaking.

GULF ISLANDS NATIONAL SEASHORE

SEC. 6034. (a) The Secretary of the Interior shall allow the State of Mississippi, its lessees, contractors, and permittees, to conduct, under reasonable regulation not inconsistent with extraction of the oil and gas minerals reserved by the State of Mississippi in the deed referenced in subsection (b):

(1) exploration, development and production operations on sites outside the boundaries of Gulf Islands National Seashore that use directional drilling techniques which result in the drill hole crossing into the Gulf Islands National Seashore and passing under any land or water the surface of which is owned by the United States, including terminating in bottom hole locations thereunder; and

(2) seismic and seismic-related exploration activities inside the boundaries of Gulf Islands National Seashore to identify the oil and gas minerals located within the boundaries of the Gulf Islands National Seashore under the surface estate conveyed by the State of Mississippi, all of which oil and gas minerals the State of Mississippi reserved the right to extract.

(b) The provisions of subsection (a) shall not take effect until the State of Mississippi enters into an agreement with the Secretary providing that any actions by the United States in relation to the provisions in the section shall not trigger any reverter of any estate conveyed by the State of Mississippi to the United States within the Gulf Islands National Seashore in Chapter 482 of the General Laws of the State of Mississippi, 1971, and the quitclaim deed of June 15, 1972.

SURFACE MINING CONTROL AND RECLAMATION ACT

SEC. 6035. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "June 30, 2005," and inserting "September 30, 2005,".

RESIDENT AND NONRESIDENT HUNTING AND FISHING REGULATIONS

SEC. 6036. STATE REGULATION OF RESIDENT AND NONRESIDENT HUNTING AND FISHING. (a) SHORT TITLE.—This section may be cited as the "Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005".

(b) DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.—

(1) IN GENERAL.—It is the policy of Congress that it is in the public interest for each State to continue to regulate

the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(2) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the "commerce clause") to the regulation of hunting or fishing by a State or Indian tribe.

(c) LIMITATIONS.—Nothing in this section shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

(d) STATE DEFINED.—For purposes of this section, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

STATE AND TRIBAL ASSISTANCE GRANTS, TECHNICAL CORRECTIONS

SEC. 6037. The referenced statement of the managers under the heading "State and Tribal Assistance Grants" for the Environmental Protection Agency in Public Law 106–377, in reference to item 80, is deemed to be amended by striking all after "for" and inserting in lieu thereof "wastewater infrastructure improvements".

SEC. 6038. The referenced statement of the managers under the heading "State and Tribal Assistance Grants" for the Environmental Protection Agency in Public Law 108–199 is deemed to be amended, in reference to item 331, by striking all after "to" and inserting in lieu thereof "Wayne County, New York Water and Sewer Authority for wastewater infrastructure improvements" and, in reference to item 25, by striking all after "for" and inserting in lieu thereof "water and wastewater improvements".

SEC. 6039. The referenced statement of the managers under the heading "State and Tribal Assistance Grants" for the Environmental Protection Agency in Public Law 108–447 is deemed to be amended, in reference to item 235, by striking "$650,000" and inserting in lieu thereof "$1,000,000" and is deemed to be amended by adding "668. $150,000 to the City of Oldsmar, Florida for water and wastewater infrastructure improvements.".

TRANSFER AUTHORITY

SEC. 6040. (a) Section 102 of division F of Public Law 108–447 is hereby repealed.

(b) Section 208 of division F of Public Law 108–447 is amended by inserting before the period at the end the following: ": *Provided further,* That such authority shall be limited to emergency use only, and is not to be used to create new programs, or to fund any project or activity for which no funds were provided".

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF EDUCATION—FISCAL YEAR 2005

SEC. 6041. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108–447; House Report 108–792), in the matter in title III of division F, relating to the Fund for the Improvement of Education under the heading "Innovation and Improvement"—

(1) the provision specifying $500,000 for the Mississippi Museum of Art, Jackson, MS for Hardy Middle School After School Program shall be deemed to read "Mississippi Museum of Art, Jackson, MS for a Mississippi Museum of Art After-School Collaborative";

(2) the provision specifying $2,000,000 for the Milken Family Foundation, Santa Monica, CA, for the Teacher Advancement Program shall be deemed to read "Teacher Advancement Program Foundation, Santa Monica, CA for the Teacher Advancement Program";

(3) the provision specifying $1,000,000 for Batelle for Kids, Columbus, OH for a multi-state effort to evaluate and learn the most effective ways for accelerating student academic growth shall be deemed to read "Battelle for Kids, Columbus, OH for a multi-state effort to implement, evaluate and learn the most effective ways for accelerating student academic growth";

(4) the provision specifying $750,000 for the Institute of Heart Math, Boulder Creek, CO for a teacher retention and student dropout prevention program shall be deemed to read "Institute of Heart Math, Boulder Creek, CA for a teacher retention and student dropout prevention program";

(5) the provision specifying $200,000 for Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Franklin Sherman Elementary School and Chesterbrook Elementary School in McLean, Virginia shall be deemed to read "Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Shrevewood Elementary School and Wolftrap Elementary School";

(6) the provision specifying $1,250,000 for the University of Alaska/Fairbanks in Fairbanks, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) shall be deemed to read "University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED)";

(7) the provision specifying $25,000 for QUILL Productions, Inc., Aston, PA, to develop and disseminate programs to enhance the teaching of American history shall be deemed to read "QUILL Entertainment Company, Aston, PA, to develop and disseminate programs to enhance the teaching of American history";

(8) the provision specifying $780,000 for City of St. Charles, MO for the St. Charles Foundry Arts Center in support of arts education shall be deemed to read "The Foundry Art Centre, St. Charles, Missouri for support of arts education in conjunction with the City of St. Charles, MO";

(9) the provision specifying $100,000 for Community Arts Program, Chester, PA, for arts education shall be deemed to read "Chester Economic Development Authority, Chester, PA for a community arts program";

(10) the provision specifying $100,000 for Kids with A Promise—The Bowery Mission, Bushkill, PA shall be deemed to read "Kids with A Promise—The Bowery Mission, New York, NY";

(11) the provision specifying $50,000 for Great Projects Film Company, Inc., Washington, DC, to produce "Educating America", a documentary about the challenges facing our public schools shall be deemed to read "Great Projects Film Company, Inc., New York, NY, to produce 'Educating America', a documentary about the challenges facing our public schools";

(12) the provision specifying $30,000 for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest, Speers and Elijabar shall be deemed to read "American Camping Association for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest and Speers-Elijabar";

(13) the provision specifying $163,000 for Space Education Initiatives, Green Bay, WI for the Wisconsin Space Science Initiative shall be deemed to read "Space Education Initiatives, De Pere, WI for the Wisconsin Space Science Initiative";

(14) the provision specifying $100,000 for Clarion County Career Center, Shippenville, PA for curriculum development shall be deemed to read "Clarion County Career Center, Shippenville, PA for curriculum development, technology and/or equipment";

(15) the provision specifying $100,000 for Central Pennsylvania Institute of Science and Technology, Pleasant Gap, PA for curriculum development shall be deemed to read "Central Pennsylvania Institute of Science and Technology, Pleasant Gap, PA for curriculum development, technology and/or equipment";

(16) the provision specifying $100,000 for Forest Area High School, Tionesta, PA, for curriculum development shall be deemed to read "Forest Area High School, Tionesta, PA for curriculum development, technology and/or equipment";

(17) the provision specifying $100,000 for Jersey Shore High School, Jersey Shore, PA, for curriculum development shall be deemed to read "Jersey Shore High School, Jersey Shore, PA for curriculum development, technology and/or equipment";

(18) the provision specifying $100,000 for Montgomery Area School District, Montgomery, PA for curriculum development shall be deemed to read "Montgomery Area School District, Montgomery, PA for curriculum development, technology and/or equipment";

(19) the provision specifying $100,000 for Southern Tioga School District, Blossburg, PA for curriculum development shall

be deemed to read "Southern Tioga School District, Blossburg, PA for curriculum development, technology and/or equipment";

(20) the provision specifying $300,000 for Venango County AVTS, Oil City, PA for curriculum development shall be deemed to read "Venango County AVTS, Oil City, PA for curriculum development, technology and/or equipment";

(21) the provision specifying $100,000 for Warren County Career Center, Warren, PA, for curriculum development shall be deemed to read "Warren County Career Center, Warren, PA for curriculum development, technology and/or equipment"; and

(22) the provision specifying $100,000 for Wellsboro Area School District, Wellsboro, PA, for curriculum development shall be deemed to read "Wellsboro Area School District, Wellsboro, PA for curriculum development, technology and/or equipment".

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION—FISCAL YEAR 2005

SEC. 6042. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108–447; House Report 108–792), in the matter in title III of division F, relating to the Fund for the Improvement of Postsecondary Education under the heading "Higher Education"—

(1) the provision specifying $145,000 for the Belin-Blank Center at the University of Iowa, Iowa City, IA for the Big 10 school initiative to improve minority student access to Advanced Placement courses shall be deemed to read "University of Iowa, Iowa City, IA for the Iowa and Israel: Partners in Excellence program to enhance math and science opportunities to rural Iowa students";

(2) the provision specifying $150,000 for Mercy College, Dobbs Ferry, NY for the development of a registered nursing program shall be deemed to read "Mercy College, Dobbs Ferry, NY, for the development of a master's degree program in nursing education, including marketing and recruitment activities";

(3) the provision specifying $100,000 for University of Alaska/Southeast to develop distance education coursework for arctic engineering courses and programs shall be deemed to read "University of Alaska System Office to develop distance education coursework for arctic engineering courses and programs";

(4) the provision specifying $170,000 for Shippensburg University Foundation, Shippensburg, PA, for the Center for Land Use shall be deemed to read "Shippensburg University, Shippensburg, PA, for the Center for Land Use"; and

(5) the provision specifying $100,000 for Culver-Stockton College, Canton, MO for equipment and technology shall be deemed to read "Moberly Area Community College, Moberly, MO for equipment and technology".

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF EDUCATION—FISCAL YEAR 2004

SEC. 6043. In the statement of the managers of the committee of conference accompanying H.R. 2673 (Public Law 108–199; House

Report 108–401), in the matter in title III of division E, relating to the Fund for the Improvement of Education under the heading "Innovation and Improvement" the provision specifying $1,500,000 for the University of Alaska at Fairbanks for Alaska System for Early Education Development (SEED) program to expand early childhood services and to train Early Head Start teachers with AAS degrees for positions in rural Alaska shall be deemed to read "University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) program to expand early childhood services and to train Early Head Start teachers with AAS degrees for positions in rural Alaska".

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR GRANT REVIEWS

SEC. 6044. The matter under the heading "Corporation for National and Community Service—National and Community Service Programs Operating Expenses" in title III of division I of Public Law 108–447 is amended by inserting before the period at the end the following: ": *Provided further,* That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers".

MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM

SEC. 6045. (a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting "or an entity described in paragraph (3)" after "means a hospital"; and

(B) in subparagraph (B)—

(i) by inserting "legislature" after "State" the first place it appears; and

(ii) by inserting "and such designation by the State legislature occurred prior to December 8, 2003" before the period at the end; and

(2) by adding at the end the following new paragraph:

"(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

"(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

"(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.".

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

"(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447).

APPLICATION PROCESSING AND ENFORCEMENT FEES

SEC. 6046. Section 286(s)(6) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(6)) is amended in the second sentence by inserting "and section 212(a)(5)(A)" before the period at the end.

TECHNICAL CORRECTION—HIGHER EDUCATION

(INCLUDING RESCISSION OF FUNDS)

SEC. 6047. (a) RESCISSION.—Of the funds made available under the heading "Higher Education" in title III of division F of Public Law 108–447, $496,000 is rescinded, to be derived from the amount provided pursuant to the last proviso under such heading for the IWF Leadership Foundation, Washington, DC, for a scholarship fund.

(b) APPROPRIATION.—The amount rescinded by subsection (a) is appropriated for "General Services Administration—Operating Expenses", for a grant to the IWF Leadership Foundation, Washington, DC, for a scholarship fund.

COPYRIGHT ROYALTY JUDGES

SEC. 6048. (a) The item relating to "LIBRARY OF CONGRESS—Copyright Office—salaries and expenses" in the Legislative Branch Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3187), is amended by striking the period at the end and inserting the following: ": *Provided further,* That notwithstanding any provision of chapter 8 of title 17, United States Code, any amounts made available under this heading which are attributable to royalty fees and payments received by the Copyright Office pursuant to sections 111 and 119, and chapter 10 of such title may be used for the costs incurred in the administration of the Copyright Royalty Judges program during any portion of fiscal year 2005 in which such program is in effect.".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2005.

CAPITOL VISITOR CENTER

SEC. 6049. (a) The item relating to "Architect of the Capitol—Capitol Visitor Center" in the Legislative Branch Appropriations Act, 2002 (Public Law 107–68; 115 Stat. 588), is amended by striking "chair and ranking minority member of the".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002.

TECHNICAL CORRECTION

SEC. 6050. Notwithstanding any other provision of law, unexpended and unobligated funds appropriated by Public Law 108–7 to the accounts under the heading "SENATE" relating to Legislative Branch appropriations shall remain available without fiscal

year limitation: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TECHNICAL CORRECTIONS—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FISCAL YEAR 2005

SEC. 6051. The referenced statement of managers under the heading "National Oceanic and Atmospheric Administration" in title II of division B of Public Law 108–447 is deemed to be amended after "Bonneau Ferry, SC" by striking "20,000" and inserting "19,200" in the "Procurement, Acquisition and Construction" account: *Provided,* That the difference in these amounts are available for transfer to the "Operations, Research, and Facilities" account for "Response and Restoration Base".

SEC. 6052. The referenced statement of managers under the heading "National Oceanic and Atmospheric Administration" in title II of division B of Public Law 108–447 is deemed to be amended under the heading "Construction/Acquisition, Coastal and Estuarine Land Conservation Program" by striking "Tonner Canyon, CA" and inserting "Tolay Lake, Sonoma County, CA".

SEC. 6053. The referenced statement of managers under the heading "National Oceanic and Atmospheric Administration" in title II of division B of Public Law 108–447 is deemed to be amended under the heading "Construction/Acquisition, Coastal and Estuarine Land Conservation Program" by striking "Port Aransas Nature Preserve Wetlands Project, TX—3,000" and under the heading "Section 2 (FWCA) Coastal/Estuarine Land Acquisition" by inserting "Port Aransas Nature Preserve Wetlands Project, TX—3,000".

SMALL BUSINESS ADMINISTRATION—TECHNICAL CORRECTIONS

SEC. 6054. Section 621 of title VI of division B of Public Law 108–199 is amended by striking "of passenger, cargo and other aviation services".

SEC. 6055. Section 619(a) of title VI of division B of Public Law 108–447 is amended by striking "Asheville-Buncombe Technical Community College" and inserting "the International Small Business Institute".

SEC. 6056. (a) Section 619(a) of title VI of division B of Public Law 108–447 is amended by striking "for the continued modernization of the Mason Building".

(b) Section 621 of title VI of division B of Public Law 108–199, as amended by Public Law 108–447, is amended by striking ", for the continued modernization of the Mason Building".

SEC. 6057. (a) Section 633 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553) and section 629 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77) are each amended by striking "NTTC at Wheeling Jesuit University" and inserting "West Virginia High Technology Consortium Foundation".

(b) The amendments made by subsection (a) shall apply to the remaining balances of the grants involved.

TECHNICAL CORRECTION—BANKRUPTCY

SEC. 6058. (a) Section 325 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 is amended to read as follows:

"SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

"(a) BANKRUPTCY FILING FEES.—Section 1930(a) of title 28, United States Code, is amended—

"(1) by striking paragraph (1) and inserting the following:

"'(1) For a case commenced under—

"'(A) chapter 7 of title 11, $220, and

"'(B) chapter 13 of title 11, $150.'; and

"(2) in paragraph (3), by striking '$800' and inserting '$1,000'.

"(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

"(1) by striking paragraph (1) and inserting the following:

"'(1)(A) 40.46 percent of the fees collected under section 1930(a)(1)(A); and

"'(B) 28.33 percent of the fees collected under section 1930(a)(1)(B);'; and

"(2) in paragraph (2), by striking 'one-half' and inserting '55 percent'.

"(c) COLLECTIONS AND DEPOSITS OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking 'pursuant to 28 U.S.C. section 1930(b)' and all that follows through '28 U.S.C. section 1931' and inserting 'under section 1930(b) of title 28, United States Code, 28.87 percent of the fees collected under section 1930(a)(1)(A) of that title, 35.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title'.".

(b) This section and the amendment made by this section shall take effect immediately after the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

DEPARTMENT OF COMMERCE—CONFERENCE

SEC. 6059. Within the amount provided for the Department of Commerce in division B of Public Law 108–447, the Secretary of Commerce shall convene a national conference on science, technology, trade and manufacturing.

TECHNICAL CORRECTION—9/11 HEROES

SEC. 6060. Subsection (d) of the section 124 that appears under the item relating to "General Provisions—Department of Justice" of the Consolidated Appropriations Act of 2005 (Public Law 108–447) is amended—

(1) in paragraph (2), by striking "with the Secretary of the Treasury to prepare and strike, on a reimbursable basis," and inserting "for striking"; and

(2) by striking paragraph (3).

TECHNICAL CORRECTIONS—DEPARTMENT OF TRANSPORTATION

SEC. 6061. The matter under the heading "Federal Transit Administration, Capital Investment Grants" in title I of division

H of Public Law 108–447 is amended by striking "$3,591,548" and inserting "$1,362,683" and by striking "$22,554,144" and inserting "$12,998,815": *Provided,* That the amount of new fixed guideway funds available for each project expected to complete its full funding grant agreement this fiscal year shall not exceed the amount which, when reduced by the across-the-board rescission of 0.80 percent of such Act, is equal to the amount of new fixed guideway funds required to complete the commitment of Federal new fixed guideway funds reflected in the project's full funding grant agreement: *Provided further,* That of the new fixed guideway funds available in Public Law 108–447, $1,352,899 shall be available for the Northern New Jersey Newark Rail Link MOS 1 project, no funds shall be available for the Northern New Jersey Newark-Elizabeth Rail Line MOS 1 project, and $316,427 shall be available for the Northern New Jersey Hudson-Bergen Light Rail MOS 1 project.

SEC. 6062. Notwithstanding any other provision of law, in section 1602 of the Transportation Equity Act for the 21st Century, item number 744 is amended by striking "Preliminary design of Route 2 Connector to Downtown Fitchburg" and inserting "design, construction/reconstruction and right of way acquisition for roadway improvements along the Route 12 corridor in Leominster and Fitchburg to enhance access from Route 2 to North Leominster and Downtown Fitchburg".

SEC. 6063. Section 198 of division H of Public Law 108–447 is amended by inserting "under title 23 of the United States Code" after "law".

PAYMENTS TO AIR CARRIERS

SEC. 6064. Notwithstanding any other provision of law, for the current fiscal year and any period covered by an Act making continuing appropriations for fiscal year 2006, all overflight fees collected and credited to the account established under section 45303(a) of title 49, United States Code, shall be made available immediately for obligation and expenditure to meet the costs of the essential air service program under 49 U.S.C. 41731 through 41742: *Provided,* That, if the funds in this account are insufficient to meet the costs of the essential air service program in such fiscal year, the Secretary of Transportation shall transfer such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary for such fiscal year.

MARITIME ADMINISTRATION

SEC. 6065. No provision of this Act may be construed as altering or amending the force or effect of any of the following provisions of law as currently applied:

(1) Sections 2631 and 2631a of title 10, United States Code.

(2) Sections 901(b) and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b), 1241f).

(3) Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500).

(4) Any other similar provision of law requiring the use of privately owned United States flag commercial vessels for certain transportation purposes of the United States.

THE JUDICIARY

SEC. 6066. Section 308 of division B of Public Law 108–447 is amended by striking all after the words "shall be deposited", and inserting "as offsetting receipts to the fund established under 28 U.S.C. 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and Other Judicial Services and the Administrative Offices of the United States Courts.".

TECHNICAL CORRECTIONS—GENERAL SERVICES ADMINISTRATION

SEC. 6067. Under the heading "Federal Buildings Fund" in title IV of division H of Public Law 108–447, strike "$60,000,000" and insert in lieu thereof "$60,600,000" in reference to the Las Cruces United States Courthouse.

SEC. 6068. Section 408 in title IV of division H of Public Law 108–447 is amended by striking "Section 572(a)(2)(ii)" and inserting in lieu thereof "Section 572(a)(2)(A)(ii)".

TECHNICAL CORRECTIONS—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6069. (a) The referenced statement of the managers under the heading "Community Development Fund" in title II of division I of Public Law 108–447 is deemed to be amended—

(1) with respect to item 230 by striking "City" and inserting "Port";

(2) with respect to item 233 by inserting "Port of" before the words "Brookings Harbor"; and

(3) with respect to item number 30 by inserting "to be used for planning, design, and construction" after "California,".

SEC. 6070. The referenced statement of managers under the heading "Community Development Fund" in title II of division K of Public Law 108–7 is deemed to be amended—

(1) with respect to item number 39 by striking "Conference and Workforce Center in Harrison, Arkansas" and inserting "in Harrison, Arkansas for facilities construction of the North Arkansas College Health Sciences Education Center"; and

(2) with respect to item number 316 by striking "for renovation of a visitor center to accommodate a Space and Flight Center" and inserting "to build-out the Prince George's County Economic Development and Business Assistance Center".

SEC. 6071. The referenced statement of the managers under the heading "Community Development Fund" in title II of division G of Public Law 108–199 is deemed to be amended—

(1) with respect to item number 56 by striking "Conference and Training Center" and inserting "North Arkansas College Health Sciences Education Center";

(2) with respect to item number 102 by striking "to the Town of Groveland, California for purchase of a youth center" and inserting "to the County of Tuolomne for the purchase of a new youth center in the mountain community of Groveland";

(3) with respect to item number 218 by striking "for construction" and inserting "for design and engineering";

(4) with respect to item number 472 by striking "for sidewalk, curbs and facade improvements in the Morton Avenue neighborhood" and inserting "for streetscape renovation";

(5) with respect to item number 493 by striking "for land acquisition" and inserting "for planning and design of its Sports and Recreation Center and Education Complex";

(6) with respect to item number 122 by inserting "to be used for planning, design, and construction" after "California,";

(7) with respect to item number 369 by striking "for the" after "Michigan" and inserting "to be used for planning, design, and construction of the"; and

(8) with respect to item number 450 by striking "V.I.C.T.E.M. Family Center in Washoe County, Nevada for the construction of a facility for multi-purpose social services referral and victim counseling;" and inserting "Washoe County, Nevada for a facility and equipment for the SART/CARES victim programs;".

SEC. 6072. The referenced statement of the managers under the heading "Community Development Fund" in title II of division I of Public Law 108–447 is deemed to be amended as follows—

(1) with respect to item number 706 by striking "a public swimming pool" and inserting "recreation fields";

(2) with respect to item number 667 by striking "to the Town of Appomattox, Virginia for facilities construction of an African-American cultural and heritage museum at the Carver-Price building" and inserting "to the County of Appomattox, Virginia for renovation of the Carver-Price building";

(3) with respect to item number 668 by striking "for the Town of South Boston, Virginia for renovations and creation of a community arts center at the Prizery" and inserting "for The Prizery in South Boston, Virginia for renovations and creation of a community arts center";

(4) with respect to item number 669 by striking "for the City of Moneta, Virginia for facilities construction and renovations of an art, education, and community outreach center" and inserting "for the Moneta Arts, Education, and Community Outreach Center in Moneta, Virginia for facilities construction and renovations";

(5) with respect to item number 910 by striking "repairs to" and inserting "renovation and construction of";

(6) with respect to item number 902 by striking "City of Brooklyn" and inserting "Fifth Ave Committee in Brooklyn"; and

(7) with respect to item number 244 by inserting "Historic" before the words "Village, Inc".

SEC. 6073. (a) Section 222 of title II of division I of Public Law 108–447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking "subsections" and inserting "subsection", and

(2) striking "or (k)" each place that it appears.

SEC. 6074. Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "150,000" and inserting "250,000".

SEC. 6075. The matter under the heading relating to "PUBLIC AND INDIAN HOUSING—PUBLIC HOUSING CAPITAL FUND" in title II of the Departments of Veterans Affairs and Housing and Urban

Development, and Independent Agencies Appropriations Act, 2005 (enacted as division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3297)) is amended by striking the 8th proviso and inserting the following: ": *Provided further*, That up to $3,000,000 is to support the costs of administrative and judicial receiverships".

PREPACKAGED NEWS

SEC. 6076. Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act, may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

LOCAL BUDGET AUTHORITY FOR THE DISTRICT OF COLUMBIA

SEC. 6077. The District of Columbia Appropriations Act, 2005 (Public Law 108–335) approved October 18, 2004, is amended as follows:

(1) Section 331 is amended as follows:

(A) in the first sentence by striking "$15,000,000" and inserting "$42,000,000, to remain available until expended," in its place, and

(B) by amending subsection (5) to read as follows:

"(5) The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure.".

(2) By inserting a new section before the short title at the end to read as follows:

"SEC. 348. The amount appropriated by this Act may be increased by an additional amount of $206,736,000 (including $49,927,000 from local funds and $156,809,000 from other funds) to be transferred by the Mayor of the District of Columbia to the various headings under this Act as follows:

"(1) $174,927,000 (including $34,927,000 from local funds and $140,000,000 from other funds) shall be transferred under the heading 'Government Direction and Support': *Provided,* That of the funds, $33,000,000 from local funds shall remain available until expended: *Provided further,* That of the funds, $140,000,000 from other funds shall remain available until expended and shall only be available in conjunction with revenue from a private or alternative financing proposal approved pursuant to section 106 of DC Act 15–717, the 'Ballpark Omnibus Financing and Revenue Act of 2004' approved by the District of Columbia, December 29, 2004, and

"(2) $15,000,000 from local funds shall be transferred under the heading 'Repayment of Loans and Interest', and

"(3) $14,000,000 from other funds shall be transferred under the heading 'Sports and Entertainment Commission', and

"(4) $2,809,000 from other funds shall be transferred under the heading 'Water and Sewer Authority'.".

USE OF FUNDS FOR EMERGENCY PREPAREDNESS CENTERS

SEC. 6078. Section 114 of title I of division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by inserting before the period "and section 303 of Public Law 108–422".

COLLECTIONS DEPOSITED INTO PROJECT CONSTRUCTION ACCOUNTS

SEC. 6079. Section 117 of title I of division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by striking "that are deposited into the Medical Care Collections Fund may be transferred and merged with" and inserting "may be deposited into the".

CONTRACTS FOR HOSPITAL CARE AND MEDICAL SERVICES

SEC. 6080. Section 1703(d)(2) of title 38, United States Code, is amended by striking "shall be available for the purposes" and inserting "shall be available, without fiscal year limitation, for the purposes".

IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES

SEC. 6081. (a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

"(h) DEFINITION.—In this section, the term 'medical center' includes any outpatient clinic.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108–422).

This division may be cited as the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005".

DIVISION B—REAL ID ACT OF 2005

SECTION 1. SHORT TITLE.

This division may be cited as the "REAL ID Act of 2005".

TITLE I—AMENDMENTS TO FEDERAL LAWS TO PROTECT AGAINST TERRORIST ENTRY

SEC. 101. PREVENTING TERRORISTS FROM OBTAINING RELIEF FROM REMOVAL.

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking "The Attorney General" the first place such term appears and inserting the following:

"(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General";

(2) by striking "the Attorney General" the second and third places such term appears and inserting "the Secretary of Homeland Security or the Attorney General"; and

(3) by adding at the end the following:

"(B) BURDEN OF PROOF.—

"(i) IN GENERAL.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be at least one central reason for persecuting the applicant.

"(ii) SUSTAINING BURDEN.—The testimony of the applicant may be sufficient to sustain the applicant's burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant's testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant's burden, the trier of fact may weigh the credible testimony along with other evidence of record. Where the trier of fact determines that the applicant should provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence.

"(iii) CREDIBILITY DETERMINATION.—Considering the totality of the circumstances, and all relevant factors, a trier of fact may base a credibility determination on the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor. There is no presumption of credibility, however, if no adverse credibility determination is explicitly made, the applicant or witness shall have a rebuttable presumption of credibility on appeal.".

(b) EXCEPTIONS TO ELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended—

(1) by striking "inadmissible under" each place such term appears and inserting "described in"; and

(2) by striking "removable under".

(c) WITHHOLDING OF REMOVAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

"(C) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A), the trier of fact shall determine whether the alien has sustained the alien's burden of proof, and shall make credibility determinations, in the manner described in clauses (ii) and (iii) of section 208(b)(1)(B).".

(d) OTHER REQUESTS FOR RELIEF FROM REMOVAL.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1230(c)) is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (3) the following:

"(4) APPLICATIONS FOR RELIEF FROM REMOVAL.—

"(A) IN GENERAL.—An alien applying for relief or protection from removal has the burden of proof to establish that the alien—

"(i) satisfies the applicable eligibility requirements; and

"(ii) with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion.

"(B) SUSTAINING BURDEN.—The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant's application for relief or protection as provided by law or by regulation or in the instructions for the application form. In evaluating the testimony of the applicant or other witness in support of the application, the immigration judge will determine whether or not the testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant has satisfied the applicant's burden of proof. In determining whether the applicant has met such burden, the immigration judge shall weigh the credible testimony along with other evidence of record. Where the immigration judge determines that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant demonstrates that the applicant does not have the evidence and cannot reasonably obtain the evidence.

"(C) CREDIBILITY DETERMINATION.—Considering the totality of the circumstances, and all relevant factors, the immigration judge may base a credibility determination on the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor. There is no presumption of

credibility, however, if no adverse credibility determination is explicitly made, the applicant or witness shall have a rebuttable presumption of credibility on appeal.".

(e) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding at the end, after subparagraph (D), the following: "No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 208(b)(1)(B), 240(c)(4)(B), or 241(b)(3)(C), unless the court finds, pursuant to section 242(b)(4)(B), that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.".

(f) CLARIFICATION OF DISCRETION.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting "or the Secretary of Homeland Security" after "Attorney General" each place such term appears; and

(2) in the matter preceding clause (i), by inserting "and regardless of whether the judgment, decision, or action is made in removal proceedings," after "other provision of law,".

(g) REMOVAL OF CAPS.—

(1) ASYLEES.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(A) in subsection (a)(1)—

(i) by striking "Service" and inserting "Department of Homeland Security"; and

(ii) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security or the Attorney General";

(B) in subsection (b)—

(i) by striking "Not more" and all that follows through "asylum who—" and inserting "The Secretary of Homeland Security or the Attorney General, in the Secretary's or the Attorney General's discretion and under such regulations as the Secretary or the Attorney General may prescribe, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—"; and

(ii) in the matter following paragraph (5), by striking "Attorney General" and inserting "Secretary of Homeland Security or the Attorney General"; and

(C) in subsection (c), by striking "Attorney General" and inserting "Secretary of Homeland Security or the Attorney General".

(2) PERSONS RESISTING COERCIVE POPULATION CONTROL METHODS.—Section 207(a) of the Immigration and Nationality Act (8 U.S.C. 1157(a)) is amended by striking paragraph (5).

(h) EFFECTIVE DATES.—

(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as if enacted on March 1, 2003.

(2) The amendments made by subsections (a)(3), (b), (c), and (d) shall take effect on the date of the enactment of this division and shall apply to applications for asylum, withholding, or other relief from removal made on or after such date.

(3) The amendment made by subsection (e) shall take effect on the date of the enactment of this division and shall apply

to all cases in which the final administrative removal order is or was issued before, on, or after such date.

(4) The amendments made by subsection (f) shall take effect on the date of the enactment of this division and shall apply to all cases pending before any court on or after such date.

(5) The amendments made by subsection (g) shall take effect on the date of the enactment of this division.

(i) REPEAL.—Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 102. WAIVER OF LEGAL REQUIREMENTS NECESSARY FOR IMPROVEMENT OF BARRIERS AT BORDERS; FEDERAL COURT REVIEW.

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:

"(c) WAIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section. Any such decision by the Secretary shall be effective upon being published in the Federal Register.

"(2) FEDERAL COURT REVIEW.—

"(A) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this subparagraph.

"(B) TIME FOR FILING OF COMPLAINT.—Any cause or claim brought pursuant to subparagraph (A) shall be filed not later than 60 days after the date of the action or decision made by the Secretary of Homeland Security. A claim shall be barred unless it is filed within the time specified.

"(C) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

SEC. 103. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) IN GENERAL.—So much of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence is amended to read as follows:

"(i) IN GENERAL.—Any alien who—

"(I) has engaged in a terrorist activity;

"(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

"(IV) is a representative (as defined in clause (v)) of—

"(aa) a terrorist organization (as defined in clause (vi)); or

"(bb) a political, social, or other group that endorses or espouses terrorist activity;

"(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

"(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

"(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

"(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.".

(b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

"(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

"(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

"(II) to prepare or plan a terrorist activity;

"(III) to gather information on potential targets for terrorist activity;

"(IV) to solicit funds or other things of value for—

"(aa) a terrorist activity;

"(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

"(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

"(V) to solicit any individual—

"(aa) to engage in conduct otherwise described in this subsection;

"(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

"(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

"(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

"(aa) for the commission of a terrorist activity;

"(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

"(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

"(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.".

(c) TERRORIST ORGANIZATION DEFINED.—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

"(vi) TERRORIST ORGANIZATION DEFINED.—As used in this section, the term 'terrorist organization' means an organization—

"(I) designated under section 219;

"(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

"(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this division, and these amendments, and section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this section, shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this division; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

SEC. 104. WAIVER FOR CERTAIN GROUNDS OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "alien (A)" and inserting "alien (i)";

(3) by striking "or (B)" and inserting "or (ii)"; and

(4) by adding at the end the following:

"(B)(i) The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may conclude in such Secretary's sole unreviewable discretion that subsection (a)(3)(B)(i)(IV)(bb) or (a)(3)(B)(i)(VII) shall not apply to an alien, that subsection (a)(3)(B)(iv)(VI) shall not apply with respect to any material support an alien afforded to an organization or individual that has engaged in a terrorist activity, or that subsection (a)(3)(B)(vi)(III) shall not apply to a group solely by virtue of having a subgroup within the scope of that subsection. The Secretary of State may not, however, exercise discretion under this clause with respect to an alien once removal proceedings against the alien are instituted under section 240.

"(ii) Not later than 90 days after the end of each fiscal year, the Secretary of State and the Secretary of Homeland Security shall each provide to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Homeland Security of the House of Representatives a report on the aliens to whom such Secretary has applied clause (i). Within one week of applying clause (i) to a group, the Secretary of State or the Secretary of Homeland Security shall provide a report to such Committees.".

SEC. 105. REMOVAL OF TERRORISTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

"(B) TERRORIST ACTIVITIES.—Any alien who is described in subparagraph (B) or (F) of section 212(a)(3) is deportable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this division, and the amendment, and section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)), as amended by such paragraph, shall apply to—

(A) removal proceedings instituted before, on, or after the date of the enactment of this division; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

(b) REPEAL.—Effective as of the date of the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), section 5402 of such Act is repealed, and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

SEC. 106. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "Notwithstanding any other provision of law";

(ii) in each of subparagraphs (B) and (C), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D)" after "Notwithstanding any other provision of law"; and

(iii) by adding at the end the following:

"(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in subparagraph (B) or (C), or in any other provision of this Act (other than this section) which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section."; and

(B) by adding at the end the following:

"(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

"(5) EXCLUSIVE MEANS OF REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision,

sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).";

(2) in subsection (b)(9), by adding at the end the following: "Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact."; and

(3) in subsection (g), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "notwithstanding any other provision of law".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this division and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this division.

(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

(d) TRANSITIONAL RULE CASES.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

TITLE II—IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 201. DEFINITIONS.

In this title, the following definitions apply:

(1) DRIVER'S LICENSE.—The term "driver's license" means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term "identification card" means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) OFFICIAL PURPOSE.—The term "official purpose" includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(5) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation

of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

(13) Maintain a State motor vehicle database that contains, at a minimum—

(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking "false authentication features" and inserting "false or actual authentication features".

(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED.—In this subsection, the term "false" has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 204. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this title.

SEC. 205. AUTHORITY.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

SEC. 206. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 207. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY INTEGRATION

SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this division, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment

of the technologies considered best suited to address such threats.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) TECHNOLOGIES.—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

SEC. 303. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this division, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local

government agencies, and Indian tribal agencies on such matters.

(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.

TITLE IV—TEMPORARY WORKERS

SEC. 401. SHORT TITLE.

This title may be cited as the "Save Our Small and Seasonal Businesses Act of 2005".

SEC. 402. NUMERICAL LIMITATIONS ON H–2B WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

"(9)(A) Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitations of paragraph (1)(B) during any 1 of the 3 fiscal years prior to the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward such limitation for the fiscal year in which the petition is approved. Such an alien shall be considered a returning worker.

"(B) A petition referred to in subparagraph (A) shall include, with respect to a returning worker—

"(i) all information and evidence that the Secretary of Homeland Security determines is required to support a petition for status under section 101(a)(15)(H)(ii)(b);

"(ii) the full name of the alien; and

"(iii) a certification to the Department of Homeland Security that the alien is a returning worker.

"(C) An H–2B visa or grant of nonimmigrant status for a returning worker shall be approved only if the alien is confirmed to be a returning worker by—

"(i) the Department of State; or

"(ii) if the alien is visa exempt or seeking to change to status under section 101 (a)(15)(H)(ii)(b), the Department of Homeland Security.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) IMPLEMENTATION.—Not later than 14 days after the date of the enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, in a manner consistent with this section and the amendments made by this section. Notwithstanding section 214(g)(9)(B) of such Act, as added by subsection (a), the Secretary of Homeland Security shall allocate additional numbers for fiscal year 2005 based on statistical

estimates and projections derived from Department of State data.

SEC. 403. FRAUD PREVENTION AND DETECTION FEE.

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended by adding at the end the following:

"(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

"(B) The amount of the fee imposed under subparagraph (A) shall be $150.".

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking "H1–B and L" each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking "section 214(c)(12)" and inserting "paragraph (12) or (13) of section 214(c)";

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking "(H)(i)" each place it appears and inserting "(H)(i), (H)(ii),"; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end "or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)".

(2) CONFORMING AMENDMENT.—The heading of such subsection (v) of section 286 is amended by striking "H1–B and L".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 14 days after the date of the enactment of this Act and shall apply to filings for a fiscal year after fiscal year 2005.

SEC. 404. SANCTIONS.

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 403, is further amended by adding at the end the following:

"(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

"(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

"(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

"(B) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

"(C) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

"(D) In this paragraph, the term 'substantial failure' means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 405. ALLOCATION OF H–2B VISAS OR H–2B NONIMMIGRANT STATUS DURING A FISCAL YEAR.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 402, is further amended by adding at the end the following new paragraph:

"(10) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens subject to such numerical limits who enter the United States pursuant to a visa or are accorded nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.".

SEC. 406. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H–2B NONIMMIGRANTS.

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105–277; 8 U.S.C. 1184 note) is amended—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security"; and

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

"(d) PROVISION OF INFORMATION.—

"(1) SEMIANNUAL NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security and the Secretary of State shall notify, on a semiannual basis, the Committees on the Judiciary of the House of Representatives and the Senate of the number of aliens who during the preceding 1-year period—

"(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

"(B) had such a visa or such status be revoked or otherwise terminated.

"(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security and the Secretary of State shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

"(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

"(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

"(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

"(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.".

SEC. 407. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

The requirements of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedure Act") or any other law relating to rulemaking, information collection or publication in the Federal Register, shall not apply to any action to implement sections 402, 403, and 405 or the amendments made by such sections to the extent the Secretary Homeland of Security, the Secretary of Labor, or the Secretary of State determine that compliance with any such requirement would impede the expeditious implementation of such sections or the amendments made by such sections.

TITLE V—OTHER CHANGES TO PROVISIONS GOVERNING NONIMMIGRANT AND IMMIGRANT VISAS

SEC. 501. RECIPROCAL VISAS FOR NATIONALS OF AUSTRALIA.

(a) IN GENERAL.—Section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) is amended—

(1) by adding at the end "or (iii) solely to perform services in a specialty occupation in the United States if the alien is a national of the Commonwealth of Australia and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 212(t)(1);"; and

(2) in clause (i), by striking "or" after "national;".

(b) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 214(g) of such Act (8 U.S.C. 1184(g)), as amended by section 405, is further amended by adding at the end the following new paragraph:

"(11)(A) The Secretary of State may not approve a number of initial applications submitted for aliens described in section 101(a)(15)(E)(iii) that is more than the applicable numerical limitation set out in this paragraph.

"(B) The applicable numerical limitation referred to in subparagraph (A) is 10,500 for each fiscal year.

"(C) The applicable numerical limitation referred to in subparagraph (A) shall only apply to principal aliens and not to the spouses or children of such aliens.".

(c) SPECIALTY OCCUPATION DEFINED.—Section 214(i)(1) of such Act (8 U.S.C. 1184(i)(1)) is amended by inserting ", section 101(a)(15)(E)(iii)," after "section 101(a)(15)(H)(i)(b)".

(d) ATTESTATION.—Section 212(t) of such Act (8 U.S.C. 1182(t)), as added by section 402(b)(2) of the United States-Chile Free Trade Agreement Implementation Act (Public Law 108–77; 117 Stat. 941), is amended—

(1) by inserting "or section 101(a)(15)(E)(iii)" after "section 101(a)(15)(H)(i)(b1)" each place it appears; and

(2) in paragraphs (3)(C)(i)(II), (3)(C)(ii)(II), and (3)(C)(iii)(II) by striking "or 101(a)(15)(H)(i)(b1)" each place it appears and inserting "101(a)(15)(H)(i)(b1), or 101(a)(15)(E)(iii)".

SEC. 502. VISAS FOR NURSES.

Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence "and any such visa that is made available due to the difference between the number of employment-based visas that were made available in fiscal year 2001, 2002, 2003, or 2004 and the number of such visas that were actually used in such fiscal year shall be available only to employment-based immigrants (and their family members accompanying or following to join under section 203(d) of such Act (8 U.S.C. 1153(d))) whose immigrant worker petitions were approved based on schedule A, as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor";

(2) in paragraph (2)(A), by striking "and 2000" and inserting "through 2004"; and

(3) in paragraph (2), by amending subparagraph (B) to read as follows:

"(B)(i) REDUCTION.—The number described in subparagraph (A) shall be reduced, for each fiscal year after fiscal year 2001, by the cumulative number of immigrant visas actually used under paragraph (1) for previous fiscal years.

"(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.".

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.