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109TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 109–72

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2005, AND FOR OTHER PURPOSES

MAY 3, 2005.—Ordered to be printed

Mr. LEWIS of California, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 1268]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268), "making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

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 Act, 2005".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

20–930

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
Title III—Domestic Appropriations for the War on Terror
Title IV—Indian Ocean Tsunami Relief
Title V—Other Emergency Appropriations
Title VI—General Provisions and Technical Corrections

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 sec-

tion 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: Pro-

vided 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 nor-

mal 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 pur-

suant 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: Pro-

vided, 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 des-

ignated 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 pur-

poses 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 the '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 Environ-

mental 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, work-

ing 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 is 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 Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005 (enacted as Division I of the Consolidated Appropriations Act, 2005 (Pub. L. 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 de-

termining 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 pro-

grams 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 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 actually used under paragraph (1) may not exceed 50,000.".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and concur in the same.

JERRY LEWIS,
C. W. BILL YOUNG,
RALPH REGULA,
HAROLD ROGERS,
FRANK R. WOLF,
JIM KOLBE,
JAMES T. WALSH,
CHARLES H. TAYLOR,
DAVID L. HOBSON,
HENRY BONILLA,
JOE KNOLLENBERG,
JOHN P. MURTHA,
NORMAN D. DICKS,
ALAN B. MOLLOHAN,
PETER J. VISCLOSKY,
CHET EDWARDS,
Managers on the Part of the House.

THAD COCHRAN,
TED STEVENS,
PETE V. DOMENICI,
CHRISTOPHER S. BOND,
MITCH MCCONNELL,
RICHARD C. SHELBY,
JUDD GREGG,
ROBERT F. BENNETT,
LARRY CRAIG,
KAY BAILEY HUTCHISON,
MIKE DEWINE,
SAM BROWNBACK,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK LEAHY
(with exception for REAL ID),
TOM HARKIN

(with exception for REAL ID),
BARBARA MIKULSKI
(with exception for REAL ID),
HARRY REID
(with exception for REAL ID),
BYRON L. DORGAN
(with res.—conference did not reconvene),
DIANNE FEINSTEIN
(with exception for REAL ID),
TIM JOHNSON,
MARY LANDRIEU,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included in the reports of the House (H. Rept. 109–16) and of the Senate (S. Rept. 109–52) accompanying H.R. 1268 should be complied with unless specifically addressed in this statement of the managers. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

This conference agreement is organized by subject matter. Due to certain jurisdictional differences between the subcommittees of the House and the Senate Committees on Appropriations, the accounts and programs of certain subcommittees are, in some cases, displayed within titles or chapters with the accounts and programs of other subcommittees. The organizational structure of this conference agreement does not predetermine the organization of conference agreements on the fiscal year 2006 appropriations bills.

TITLE I—DEFENSE-RELATED APPROPRIATIONS

The conference agreement recommends $75,888,262,000 for the Department of Defense, instead of $76,923,910,000, as proposed by the House, and $74,800,257,000, as proposed by the Senate.

The following table provides details of the supplemental appropriations for the Department of Defense—Military.

[In thousands of dollars]

Account	Request	House	Senate	Conference
Military Personnel:				
Military Personnel, Army	13,298,942	13,321,742	13,609,308	13,609,208
Military Personnel, Navy	524,980	534,080	535,108	535,108
Military Personnel, Marine Corps	1,246,126	1,251,726	1,358,053	1,358,053
Military Personnel, Air Force	1,316,572	1,473,472	1,684,943	1,599,943
Reserve Personnel, Army	39,627	40,327	39,627	39,627
Reserve Personnel, Navy	9,411	11,111	9,411	9,411
Reserve Personnel, Marine Corps	4,015	4,115	4,015	4,015
Reserve Personnel, Air Force	130	130	130	130
National Guard Personnel, Army	429,200	430,300	291,100	291,100
National Guard Personnel, Air Force	91	91	91	91
Total Military Personnel	16,869,094	17,067,094	17,531,786	17,446,686
Operation and Maintenance:				
O&M, Army	17,267,304	17,432,304	16,767,304	16,980,304
Transfer from Afghan Security Forces Fund	-	-	[290,000]	[290,000]
Transfer from Iraq Security Forces Fund	-	-	[210,000]	[210,000]
O&M, Navy	3,423,501	3,030,801	3,430,801	3,030,574
O&M, Marine Corps	970,464	982,464	970,464	982,464
O&M, Air Force	5,601,510	5,769,450	5,528,574	5,627,053
O&M, Defense-Wide	3,521,327	3,061,300	3,308,392	3,042,265
O&M, Army Reserve	8,154	8,154	21,354	26,354
O&M, Navy Reserve	75,164	75,164	75,164	75,164
O&M, Marine Corps Reserve	24,920	24,920	24,920	24,920
O&M, Army National Guard	188,779	188,779	326,879	326,850
Overseas Humanitarian, Disaster and Civic Aid	10,000	10,000	-	0
Afghanistan Security Forces Fund	1,285,000	1,285,000	1,285,000	1,285,000
Transfer to O&M,A for Train and Equip	-	-	[290,000]	[290,000]
Iraq Security Forces Fund	5,700,000	5,700,000	5,700,000	5,700,000
Transfer to O&M,A for Train and Equip	-	-	[210,000]	[210,000]
Total Operation and Maintenance	38,076,123	37,568,336	37,438,852	37,100,948
Procurement:				
Aircraft Procurement, Army	458,677	458,677	458,677	458,677
Missile Procurement, Army	294,036	340,536	280,250	310,250
Procurement of WTCV, Army	2,425,207	2,678,747	2,406,447	2,551,187
Procurement of Ammunition, Army	475,000	532,800	475,000	532,800
Other Procurement, Army	5,316,405	6,634,905	5,322,905	6,250,505
(By transfer - Iraq Freedom Fund)	-	[85,000]	-	0
Aircraft Procurement, Navy	200,295	200,295	200,295	200,295
Weapons Procurement, Navy	71,600	71,600	66,000	66,000
Procurement of Ammunition, Navy & Marine Corps	133,635	141,735	133,635	139,635
Other Procurement, Navy	85,672	78,372	78,397	78,397
Procurement, Marine Corps	2,974,045	3,588,495	2,929,045	3,283,042
Aircraft Procurement, Air Force	269,241	279,241	269,309	277,309
Procurement of Ammunition, Air Force	6,998	6,998	6,998	6,998
Other Procurement, Air Force	2,834,328	2,658,527	2,653,760	2,577,560
Procurement, Defense-Wide	591,327	646,327	591,327	645,939
Total Procurement	16,136,466	18,317,255	15,872,045	17,378,594

[In thousands of dollars]

Account	Request	House	Senate	Conference
Research, Development, Test and Evaluation				
RDT&E, Army	25,170	25,170	37,170	37,170
RDT&E, Navy	179,051	202,051	179,051	204,051
RDT&E, Air Force	102,540	121,500	132,540	142,500
RDT&E, Defense-Wide	153,561	159,600	203,561	253,561
Total RDT&E	460,322	508,321	552,322	637,282
Revolving and Management Funds:				
Defense Working Capital Funds	1,311,300	1,411,300	1,311,300	1,511,300
National Defense Sealift Fund	32,400	32,400	32,400	32,400
Total Revolving and Management Funds	1,343,700	1,443,700	1,343,700	1,543,700
Other Department of Defense Programs				
Defense Health Program	175,550	175,550	225,550	210,550
Drug Interdiction and Counter-Drug Activities Defense	257,000	257,000	227,000	242,000
Office of the Inspector General	148	148	148	148
Related Agencies				
Intelligence Community Management Account	250,300	250,300	250,300	250,300
Military Construction				
Military Construction, Army	990,100	930,100	897,191	847,191
Military Construction, Navy and Marine Corps	107,380	92,720	107,380	139,880
Militray Construction, Air Force	301,520	301,386	140,983	140,983
Total Military Constructiion	1,399,000	1,324,206	1,145,554	1,128,054
General Provisions:				
General Transfer Authority - Supplemental	[+5,000,000]	[+2,000,000]	[+2,000,000]	[+3,000,000]
General Transfer Authority - FY05 - Sec. 8005	[+2,500,000]	[+2,000,000]	[+2,185,000]	[+2,685,000]
Defense Cooperation Account Transfer	12,000	12,000	-	-
Additional Amount for "Other Procurement, Army"	-	-	213,000	-
Rescission - Iraq Freedom Fund	-	-	-	(50,000)
Grand Total	74,979,703	76,923,910	74,800,257	75,888,262
(By transfer - Iraq Freedom Fund)	-	[85,000]	-	-

[1] Numbers in brackets do not add.

MEASURING STABILITY AND SECURITY IN IRAQ

In the wake of the recent Iraqi elections, public discourse about the U.S. occupation of that country has focused on the need for and the advisability of declaring a timetable for U.S. military withdrawal. Instead of focusing on exit strategies, however, the conferees believe there is a need to recast this debate by considering "strategies for success". Success in Iraq will be achieved, of course, only to the extent any new Iraqi government can legitimately and effectively rule the country, which in turn largely depends on that government's ability to protect its people and secure its borders.

The discussion on this issue should not be simply about how many Iraqi forces have been trained and equipped, but about how many can perform to reasonable standards so that they may be expected to successfully conduct their assigned missions. This is the basis for assessing U.S. military readiness, and should serve as the basis for judging the capabilities of Iraqi security forces.

The conferees believe that the Administration must develop and provide to the Congress a more comprehensive set of performance indicators and measures of stability and security in Iraq than is currently available. This undoubtedly will lead to a more informed debate over how best to allocate U.S. resources to help secure Iraq. As such, the conferees direct the Secretary of Defense (in consultation with other appropriate members of the National Security Council) to provide a report to the Speaker of the House of Representatives, the Majority Leader of the Senate, and the congressional defense committees that identifies security, economic, and Iraqi security force training performance standards and goals, accompanied by a notional timetable for achieving these goals. At a minimum, the report should include detailed descriptions of the following:

Stability and Security in Iraq:

• Key measures of political stability, including the important political milestones that must be achieved over the next several years.

• The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, trends describing numbers and types of ethnic and religious-based hostile encounters, and so on. In addition, the report should include:

—The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters; and,

—A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

• The key indicators of economic activity that should be considered as the most important for determining the prospects of stability in Iraq, including: unemployment levels; electricity, water, and oil production rates; and hunger and poverty levels.

• The criteria the Administration will use to determine when it is safe to begin withdrawing our forces from Iraq.

Security Force Training and Performance:

• The training Iraqi military and other Ministry of Defense forces have received and what equipment they are using. In par-

ticular, the report should include the key criteria for assessing the capabilities and readiness of the Iraqi military forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

• The operational readiness status of the Iraqi military forces, including: the type, number, size, and organizational structure of Iraqi battalions that are:

—Capable of conducting counterinsurgency operations independently;

—Capable of conducting counterinsurgency operations with the support of U.S. or coalition forces; and,

—Not ready to conduct counterinsurgency operations.

• The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated these forces.

• The training Iraqi police and other Ministry of Interior forces have received and what equipment they are using. In particular, the report should include the key criteria for assessing the capabilities and readiness of these forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals. This should include:

—The number of police recruits that have received classroom training and the duration of such instruction;

—The number of veteran police officers who have received classroom instruction and the duration of such instruction;

—The number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

—The number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and,

—Attrition rates and measures of absenteeism and infiltration by insurgents.

• The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending Iraq's borders and providing adequate levels of law and order throughout the country.

• The effectiveness of the Iraqi military and police officer cadres and the chain of command.

• The number of U.S. and coalition advisors needed to support the Iraqi security forces and associated ministries.

Finally, the conferees direct the Secretary to include in this report (or classified annex to the report, as necessary) an assessment of U.S. military requirements, including planned force rotations, through the end of calendar year 2006. The conferees direct the Secretary to submit this report not later than 60 days after the enactment of this Act, and every 90 days thereafter through the end of fiscal year 2006.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this report.

VETERAN-OWNED BUSINESSES

The conferees are aware that Presidential Executive Order 13360, issued on October 20, 2004, established a goal of not less than 3 percent for participation by service-disabled veteran-owned businesses in Federal contracting with the Department of Defense and all Federal agencies. The conferees note with concern that the Department is far from reaching that goal with only 0.2 percent of total prime contracts and 0.3 percent of total subcontracts awarded to service-disabled veteran-owned business in fiscal year 2003. The conferees would encourage the Department to follow the intent of Executive Order 13360 and make every effort to increase contracting opportunities with service-disabled veteran-owned businesses and to report to the congressional defense committees not later than September 30, 2005 a plan of action to reach the goal established by the President.

MILITARY PERSONNEL

The conference agreement recommends $17,446,686,000 for the Military Personnel accounts, instead of $17,067,094,000 as proposed by the House, and $17,531,786,000 as proposed by the Senate. Adjustments to the Military Personnel accounts are shown below:

[In thousands of dollars]

Account	House	Senate	Conference
Military Personnel, Army			
Incremental Wartime Costs	8,043,242	9,380,742	8,043,242
Basic Allowance for Housing	1,542,100	1,542,100	1,542,100
Active Duty Overstrength/Stop-Loss	1,337,400	-	1,337,400
Restore Baseline Reprogrammings	1,921,100	1,921,100	1,921,100
Enhanced Death Benefits	272,900	508,374	508,374
Recruiting and Retention	205,000	256,992	256,992
Total, Military Personnel, Army	13,321,742	13,609,308	13,609,208
Military Personnel, Navy			
Incremental Wartime Costs	491,480	491,480	491,480
Enhanced Death Benefits	18,900	19,928	19,928
Recruiting and Retention	23,700	23,700	23,700
Total, Military Personnel, Navy	534,080	535,108	535,108
Military Personnel, Marine Corps			
Incremental Wartime Costs	737,426	926,826	737,426
Active Duty Overstrength	189,400	-	189,400
Restore Baseline Reprogrammings	211,000	211,000	211,000
Enhanced Death Benefits	113,900	220,227	220,227
Total, Military Personnel, Marine Corps	1,251,726	1,358,053	1,358,053
Military Personnel, Air Force			
Incremental Wartime Costs	1,300,472	1,300,472	1,300,472
Active Duty Overstrength	148,000	360,000	275,000
Enhanced Death Benefits	17,000	16,471	16,471
Recruiting and Retention	8,000	8,000	8,000
Total, Military Personnel, Air Force	1,473,472	1,684,943	1,599,943
Reserve Personnel, Army			
Incremental Wartime Costs	-	30,727	-
Premobilization Training	18,427	-	18,427
Training Base Instructors	10,000	-	10,000
Recruiting and Retention	8,900	8,900	8,900
Enhanced Death Benefits	700	-	-
TTAD Special Missions	2,200	-	2,200
Foreign Language Proficiency Pay	100	-	100
Total, Reserve Personnel, Army	40,327	39,627	39,627

[In thousands of dollars]

Account	House	Senate	Conference
Reserve Personnel, Navy			
Incremental Wartime Costs	-	9,411	-
Pay and Allowances	2,811	-	2,811
Enhanced Death Benefits	1,700	-	-
Premobilizaiton Training	6,600	-	6,600
Total, Reserve Personnel, Navy	11,111	9,411	9,411
Reserve Personnel, Marine Corps			
Incremental Wartime Costs	-	4,015	-
Pay and Allowances/MOS Training	4,015	-	4,015
Enhanced Death Benefits	100	-	-
Total, Reserve Personnel, Marine Corps	4,115	4,015	4,015
Reserve Personnel, Air Force			
Incremental Wartime Costs/Foreign Language Proficiency Pay	130	130	130
National Guard Personnel, Army			
Incremental Wartime Costs	-	284,200	-
Premobilization Training	305,000	-	214,000
Enhanced Death Benefits	1,100	-	-
Security Guards	70,000	-	70,000
Recruiting and Retention	54,000	145,000	145,000
Recruiting and Retention (Transfer to O&M, Army National Guard)	-	(138,100)	(138,100)
Foreign Language Proficiency Pay	200	-	200
Subtotal, National Guard Personnel, Army	430,300	291,100	291,100
National Guard Personnel, Air Force			
Incremental Wartime Costs/Foreign Language Proficiency Pay	91	91	91
Total Military Personnel	17,067,094	17,531,786	17,446,686

OPERATION AND MAINTENANCE

The conference agreement recommends $37,100,948,000 for the Operation and maintenance accounts, instead of $37,568,336,000 as proposed by the House, and $37,438,852,000 as proposed by the Senate. Adjustments to the Operation and maintenance accounts are shown below:

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Army:			
Incremental Wartime Operating Costs	2,611,800	7,429,604	7,429,604
Personnel Support	1,377,900	-	-
Transportation	3,439,800	-	-
LOGCAP	1,518,400	1,518,400	1,518,400
Second Destination Transportation	1,231,800	1,231,800	1,231,800
Other Transportation	646,900	646,900	646,900
Depot Maintenance	1,401,300	1,401,300	1,401,300
Contractor Logistics Support	353,700	353,700	353,700
Other Maintenance Reset/Recap	1,003,400	1,003,400	1,003,400
SAPI Plates and Body Armor	63,000	-	63,000
Contract Linguists	165,300	165,300	165,300
Personnel Support	364,300	364,300	364,300
Training Base Expansion and Linguists Training	22,300	22,300	22,300
CONUS Base Support	320,804	320,700	320,700
Facilities Sustainment, Restoration, & Modernization	66,300	66,300	66,300
OCONUS Contract Security Guards	100,000	100,000	100,000
Army Working Capital Fund Spares	183,000	183,000	183,000
Other GWOT Support: Equipment; Services	136,100	136,100	136,100
Classified Activities and Support	142,600	142,600	142,600
Train and Equip	500,000	-	-
Transfer from Afghanistan Security Forces Fund		[290,000]	[290,000]
Transfer from Iraq Security Forces Fund		[210,000]	[210,000]
Lift and Sustain	200,000	400,000	400,000
Replenish Afghanistan Drawdown	83,300	83,300	83,300
Commanders Emergency Response Fund	854,000	854,000	854,000
Mobilization and Demobilization Base Support Operations	152,000	-	-
Project and Admin Office Support	329,500	329,500	329,500
LOGCAP Support to Green Zone	172,000	172,000	172,000
Classified Programs	190,400	190,400	190,400
Home Station Training Offset for Deployed Forces	(1,150,000)	(1,150,000)	(1,150,000)
Reprogramming Restoral	802,400	802,400	802,400
Medical Support for Tactical Units	150,000	-	150,000
Total Operation and Maintenance, Army	17,432,304	16,767,304	16,980,304

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Navy:			
Incidental Rate for Deployed Sailors	11,900	11,900	11,900
Morale, Welfare, and Recreation	8,300	8,300	8,300
Pre-Deployment Training	8,800	8,800	8,800
Steaming - Carrier and Expeditionary Strike Groups	145,000	145,000	145,000
Flying - Carrier and Expeditionary Strike Groups	451,700	451,700	451,700
Other Units (Seabees, Medical)	24,600	24,600	24,600
Aircraft and Ground Depot Maintenance	134,000	134,000	134,000
Ship Depot Maintenance	237,000	237,000	237,000
C4I, Logistics, Material, and Training Support	529,500	629,500	529,500
Uniformed Security Forces on MSC Ships	21,636	21,636	21,636
Increase in Composite Fuel Rate	521,000	521,000	521,000
Classified activities	52,300	52,300	52,073
Replenish Cash Drawdown in Aviation Maintenance [Transferred to Navy Working Capital Fund]	-	200,000	-
Afghan Freedom Support Act Drawdown	83,300	83,300	83,300
Home Station Training Offset for Deployed Forces	(159,300)	(159,300)	(159,300)
Airlift	525,500	625,500	525,500
Sealift	25,500	25,500	25,500
Miscellaneous Transportation	9,665	9,665	9,665
Marine Corps Transportation	393,100	393,100	393,100
Physical Security Equipment	7,300	7,300	7,300
Total Operation and Maintenance, Navy	3,030,801	3,430,801	3,030,574
Operation and Maintenance, Marine Corps:			
TDY	6,300	6,300	6,300
Clothing & Other Personnel Eqpt & Supplies	24,900	24,900	24,900
Medical Support/Health Services	3,500	3,500	3,500
Other Personnel Support	3,900	3,900	3,900
Morale, Welfare and Recreation	2,900	2,900	2,900
OPTEMPO (Fuel, Other POL, Parts)	311,380	311,380	311,380
SAPI Plates and Body Armor	12,000	-	12,000
Organizational Level Maintenance	150,900	150,900	150,900
Intermediate Level Maintenance	15,800	15,800	15,800
Depot Level Maintenance	92,400	92,400	92,400
Reconstitution/Setting the Force; Supplies	171,000	171,000	171,000
Support (C4I, Logistics, Material) and Training	95,584	95,584	95,584
Increase in Composite Fuel Rate	22,000	22,000	22,000
Peacetime Training Offset	(20,400)	(20,400)	(20,400)
Services and Contracts	81,700	81,700	81,700
Sealift	7,000	7,000	7,000
Miscellaneous Transportation Costs	1,600	1,600	1,600
Total Operation and Maintenance, Marine Corps	982,464	970,464	982,464

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Air Force:			
Personnel Support Costs	139,600	139,600	139,600
Operating Support/Flying Hours	2,371,000	2,371,000	2,371,000
Transportation	1,386,600	1,386,600	1,386,600
Fuel Rate Increase	809,900	809,900	809,900
Transportation Working Capital Fund Transfer	167,940	-	70,000
Contract Logistics Support/Depot Maintenance	628,800	628,800	628,800
Commercial Transportation	90,000	90,000	90,000
Classified and Other Support Costs	175,610	102,674	131,153
Total Operation and Maintenance, Air Force	5,769,450	5,528,574	5,627,053
Operation and Maintenance, Defense-Wide			
TJS -Combatant Commander Initiative Fund	25,000	25,000	25,000
TJS -Requirements Planning	-	4,300	-
Special Operations (SOCOM)	635,400	580,427	610,400
SOCOM - SOF Center in Jordan	-	-	-
AFIS - Stars and Stripes Distribution in Theater	6,600	6,600	6,600
DCAA - Contract Audit	5,600	5,600	5,600
DCMA - Contract Management	1,500	1,500	1,500
DODEA - Family Assistance Programs	92,000	92,000	92,000
DLSA - Legal Services	15,000	15,000	15,000
DSCA - Regional Centers	-	8,700	8,700
DSCA - Coalition Support	1,220,000	1,370,000	1,220,000
OSD Rewards Program	5,000	5,000	5,000
OSD Critical Infrastructure Protection	3,500	3,500	3,500
OSD Counter MANPADS	6,000	6,000	6,000
OSD Lift & Sustain	100,000	200,000	100,000
OSD - Network and Information Services (NII)	10,500	10,500	10,500
WHS- Iraq Project Contracting Office and OSD Pentagon Support	4,600	4,600	4,600
Other Programs/Intelligence	930,600	969,665	927,865
Total Operation and Maintenance, Defense-Wide	3,061,300	3,308,392	3,042,265

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Army Reserve			
Alerted Unit Training	5,154	5,135	5,154
Second Destination Transportation	2,400	2,389	2,400
Repair/Replace information/logistics Automation syst	600	630	600
Recruiting and Retention Support	-	13,200	13,200
Tuition Assistance	-	-	5,000
Total Operation and Maintenance, Army Reserve	8,154	21,354	26,354
Operation and Maintenance, Navy Reserve			
Reserve Flying Hours	22,800	22,800	22,800
Increased fuel rates	49,000	49,000	49,000
Operation Vigilant Mariner	3,364	3,364	3,364
Total Operation and Maintenance, Navy Reserve	75,164	75,164	75,164
Operation and Maintenance, Marine Corps Reserve			
Initial Issue,Travel,Training and Supplies	20,820	20,820	20,820
Reconstitution	3,100	3,100	3,100
Increased fuel rates	1,000	1,000	1,000
Total Operation and Maintenance, Marine Corps Res	24,920	24,920	24,920
Operation and Maintenance, Army National Guard			
Alerted Unit Training	8,800	8,800	8,800
Second Destination Transportation	12,600	12,629	12,600
Family Readiness Programs	10,000	10,000	10,000
ARNG Recruiting and Retention	157,379	295,450	295,450
Total Operation and Maintenance, Army National Gd.	188,779	326,879	326,850
Overseas Humanitarian, Disaster, and Civic Aid	10,000	-	-
Afghanistan Security Forces Fund	1,285,000	1,285,000	1,285,000
Transfer to O&M,A for Train and Equip		[290,000]	[290,000]
Iraq Security Forces Fund	5,700,000	5,700,000	5,700,000
Transfer to O&M,A for Train and Equip		[210,000]	[210,000]
Total Operation and Maintenance	37,568,336	37,438,852	37,100,948

MEDICAL SUPPORT FOR TACTICAL UNITS

The conferees recommend an increase of $150,000,000 in Operation and Maintenance, Army, to address medical requirements for those tactical units currently deployed to or returning from the Iraq or Afghanistan theaters. The conferees encourage the Department of the Army to focus these funds on the replenishment of medical supply and equipment needs within the combat theaters, to include bandages and other blood-clotting supplies that utilize advanced hemostatic, wound-dressing technologies, and on the provision of medical care for soldiers who have returned home in a medical holdover status.

CRITICAL MEDICAL RESEARCH

The conferees believe the military treatment facilities and other medical research and teaching organizations of the Department of Defense are playing a critical role in support of our forces serving in harm's way in Iraq and Afghanistan. The conferees note that these facilities and organizations have provided and are continuing to provide much needed improvements in critical care for military personnel who have been wounded in battle.

The conferees recognize the need for maintaining all of our military medical facilities in time of war, believing the continuation of this capability to be of the highest importance. As such, the conferees direct that funding available to the Department of Defense should not be used to close any military medical facility which is conducting critical medical research, or medical training, or caring for wounded soldiers.

TELEPHONE CALLING CARDS FOR INJURED SERVICEMEMBERS

The conferees commend the individuals, organizations, and corporations who have donated telephone cards for use by injured servicemembers recuperating from injuries sustained while serving in the Global War on Terrorism. The conferees encourage the Services to distribute the donated cards to all military treatment facilities providing care to those injured during contingency operations. The Services should also ensure that servicemembers recuperating in Fisher Houses, Malone Houses, or similar rehabilitation facilities are provided phone cards on a similar basis.

POST DEPLOYMENT STAND-DOWN PROGRAM

The conferees are aware of the success of the Air National Guard's Post Deployment Stand-down Program. The conferees direct the Director, Army National Guard, in consultation with the Director, Air National Guard, to assess the feasibility and advisability of implementing a similar program for the Army National Guard. The Director, Army National Guard shall report his findings and recommendations to the congressional defense committees not later than September 30, 2005.

OVERSEAS HUMANITARIAN, DISASTER AND CIVIC AID

The conference agreement does not include $10,000,000 for Overseas Humanitarian, Disaster and Civic Aid proposed by the House.

AFGHANISTAN SECURITY FORCES FUND

The conference agreement includes $1,285,000,000 for the Afghanistan Security Forces Fund to accelerate efforts to provide assistance to Afghan Security Forces. The agreement includes a transfer of $290,000,000 from this fund to the Operation and Maintenance, Army account, as proposed by the Senate.

IRAQ SECURITY FORCES FUND

The conference agreement includes $5,700,000,000 for the Iraq Security Forces Fund to accelerate efforts to provide assistance to Iraqi Security Forces. The agreement includes a transfer of $210,000,000 from this fund to the Operation and Maintenance, Army account, as proposed by the Senate.

PROCUREMENT

The conference agreement includes a total of $17,378,594,000 for various procurement appropriations, instead of $18,317,255,000 as proposed by the House and $15,872,045,000 as proposed by the Senate.

The following table identifies changes made to the request and other funding provided.

[In thousands of dollars]

	House	Senate	Conference
Aircraft Procurement, Army			
UH-60 Blackhawk (MYP)	50,800	50,800	50,800
GUARDRAIL MODS (TIARA)	13,650	13,650	13,650
ARL MODS (TIARA)	36,000	36,000	36,000
Longbow	321,100	321,100	321,100
ASE Infrared CM	37,127	37,127	37,127
Total Aircraft Procurement, Army	458,677	458,677	458,677
Missile Procurement, Army			
Javelin (AAWS-M) System Summary	146,786	133,000	133,000
TOW 2 System Summary	52,000	52,000	52,000
Army Tactical Missile Systems (ATACMS) System Summary	91,000	91,000	91,000
ITAS/TOW MODS	50,750	4,250	34,250
Total Missile Procurement, Army	340,536	280,250	310,250
Procurement of Weapons and Tracked Combat Vehicles, Army			
Bradley Base Sustainment	1,254,764	1,254,764	1,254,764
Stryker	114,040	44,500	114,040
Carrier, Mod	209,332	209,332	209,332
FIST Vehicle (MOD)	147,140	147,140	147,140
BFVS Series (MOD)	59,700	33,700	53,700
Howitzer, Med SP FT 155MM M109A6 (MOD)	625	625	625
System Enhancement Pgm: SEP M1A2	294,000	294,000	294,000
Abrams Mod	90,000		-
Armor Machine Gun, 7.62MM M240 Series	59,358	59,358	59,358
Machine Gun, 5.56MM (SAW)	19,860	19,860	19,860
Grenade Launcher, Auto, 40MM, MK19-3	23,841	23,841	23,841
Mortar Systems	24,254	24,254	24,254
M107, CAL .50, Sniper Rifle	3,755	3,755	3,755
Modification of Weapons	68,000	-	55,200
5.56 Carbine M4	55,380	55,380	55,380
Common Remotely Operated Weapons Station (CROWS)	11,300	11,300	11,300
M4 Carbine Mods	436	436	436
Squad Automatic Weapon (MOD)	732	732	732
Medium Machine Guns (MODS)	1,344	1,344	1,344
Howitzer, Light, Towed, 105MM	58,157	58,157	58,157
Items Less Than $5.0M (WOCV-WTCV)	6,249	6,249	6,249
Small Arms Equipment (Soldier Enhancement Program)	8,600	8,600	8,600
IRV	165,360	146,600	146,600
Armored Vehicle Launch Bridge (AVLB)	2,520	2,520	2,520
Total WTCV, Army	2,678,747	2,406,447	2,551,187
Procurement of Ammmunition, Army			
Ammunition Production Base	57,800	-	57,800
CTG, 5.56 MM, All Types	76,682	76,682	76,682
CTG, 7.62 MM, All Types	55,803	55,803	55,803
CTG, .50 CAL, All Types	52,515	52,515	52,515
CTG, 25 mm, All Types	4,523	4,523	4,523
CTG, 30MM, All Types	7,162	7,162	7,162
CTG, 40 mm, All Types	84,841	84,841	84,841
60 mm Mortar, All Types	20,017	20,017	20,017
81 mm Mortar, All Types	55,402	55,402	55,402
CTG, Mortar, 120 MM, All Types	81,540	81,540	81,540
CTG, Tank, 120 mm Tactical, All Types	15,000	15,000	15,000
Rocket, Hydra 70, All Types	12,941	12,941	12,941
Demolition Munitions, All Types	6,020	6,020	6,020
Grenades, All Types	1,952	1,952	1,952
Signals, All Types	386	386	386
Items Less Than $5 million	216	216	216
Total Procurement of Ammunition, Army	532,800	475,000	532,800

[In thousands of dollars]

	House	Senate	Conference
Other Procurement, Army			
Tactical Trailers/Dolly Sets	6,051	6,051	6,051
Semitrailer, Flatbed	712	712	712
Up-Armored HMMWV	51,300	-	150,000
Hi Mob Multi-Purp Whld Veh (HMMWV)	455,027	320,827	400,827
Family of Medium Tactical Vehicles (FMTV)	735,432	334,432	559,432
Family of Heavy Tactical Vehicles	516,677	309,577	423,577
Armored Security Vehicle (ASV)	550,300	550,300	550,300
Mine Protection Vehicle Family	24,950	24,950	24,950
Truck, Tractor, Line Haul, M915/M916	10,384	10,384	10,384
Heavy Expanded Mobile Tactical Truck Ext Serv Program	90,270	90,270	90,270
HMMWV Recapitalization Program	122,594	122,594	122,594
Modification of In Service Equipment (Note: includes funding for Add-on Armor kits; Gunner Protective Kit; Rollover Protection Kits. In addition, of the amounts provided within this line not less than $4 million is available only for Mobile Up-Armor Retrofit Kits).	610,900	562,900	610,900
SHF TERM	27,000	27,000	27,000
NAVSTAR-GPS	27,800	27,800	27,800
Army Data Distribution System	29,130	29,130	29,130
SINCGARS Family	792,856	718,856	767,356
Bridge to Future Networks	432,300	432,300	432,300
Radio Improved HF Family	147,300	119,300	136,300
Army Key Management System (AKMS)	19,000	19,000	19,000
WW Technical Control Improvement Program	26,000	26,000	26,000
Information Systems	50,000	50,000	50,000
All Source Analysis System	27,385	27,385	27,385
Prophet	94,884	94,884	94,884
TUAV	172,700	172,700	172,700
Digitized Topographic Support System	11,200	11,200	11,200
Distributed Common Ground System - Army	840	840	840
MOD-In-SVC (Intel Spt)	4,800	4,800	4,800
CI Humint Info Management System	30,800	30,800	30,800
Items less than $5M (Trojan Spirit)	60,050	60,050	60,050
Warlock (Note: of the funds provided in this line the conferees recommend $10 million for rapid fielding of the Low Cost Jammer)	60,000	25,000	60,000
Sentinel	3,235	3,235	3,235
Night Vision Devices	131,629	37,629	96,629
Long Range Adv Scout Surveillance System	48,870	48,870	48,870
Night Vision Thermal Weapon Sight	2,835	2,835	2,835
JLENS Family	74,100	74,100	74,100
Artillery Accuracy EQ	10,900	10,900	10,900
Profiler	24,600	24,600	24,600
MOD-M-SVC-EQ (Firefinder Radars)	20,200	20,200	20,200
Force XXI Battle Cmd Bde & Below (FBCB2)	146,100	-	66,100
Lightweight Laser Designator/Range Finder	31,000	31,000	31,000
Computer Ballistics: LHMBC	7,232	7,232	7,232
Mortar Fire Control System	66,500	66,500	66,500
Tactical Operations Center	71,900	71,900	71,900
Advanced Field Artillery Tactical (Data Sys)	10,950	10,950	10,950
Battle Command Sustainment Support System	43,450	43,450	43,450
FAAD C2	141,000	66,000	141,000
Knight Family	38,400	38,400	38,400
Maneuver Control System (MCS)	30	30	30
Tactical Bridge Float Ribbon	1,556	1,556	1,556
Handheld Stand-off Mine Detection System (HSTAMIDS)	18,300	-	10,000
Items Less Than $5 million (Eng Spt Eq)	110	110	110
Distribution System Petroleum and Water	36,400	36,400	36,400
Water Purification System	50,205	50,205	50,205
Combat Support Medical	300	300	300
Shop Equipment Contact Maint Truck	48,011	48,011	48,011
Welding Shop, Trailer MTD	4,452	4,452	4,452
Items Less Than $5M (Maint Eq)	462	462	462
Loaders	1,780	1,780	1,780
Tractor, Full Tracked	1,480	1,480	1,480
Generators and Associated Equipment	79,866	79,866	79,866

[in thousands of dollars]

	House	Senate	Conference
Rough Terrain Handler	1,000	1,000	1,000
Calibration Sets	13,250	13,250	13,250
Integrated Family Of Test Equipment	8,210	8,210	8,210
Test Equipment Modernization (Spectrum Analyzer TEMOD)	3,300	3,300	3,300
Building, Pre-Fab, Relocatable	252,550	252,550	252,550
Classified programs	52,100	52,100	52,100
Total Other Procurement, Army	6,634,905	5,322,905	6,250,505
Aircraft Procurement, Navy			
EA-6(B) Series Mods	11,000	11,000	11,000
AV-8(B) Series Mods	1,600	1,600	1,600
F/A-18 Series Mods	49,800	49,780	49,780
AH-1W Series Mods	1,800	1,790	1,790
H-53 Series Mods	40,500	40,500	40,500
SH-60 Series Mods	19,000	19,030	19,030
H-1 Series Mods	1,700	1,651	1,651
EP-3 Series Mods	13,000	13,000	13,000
P-3 Series Mods	8,400	8,400	8,400
C-130 Series Mods	12,400	12,417	12,417
Common ECM Equipment	24,895	24,907	24,907
Common Ground Equipment	5,200	5,220	5,220
War Consumables – Aircraft Armament Equipment	11,000	11,000	11,000
Total, Aircraft Procurement, Navy	200,295	200,295	200,295
Weapons Procurement, Navy			
Hellfire Missile	43,000	43,000	43,000
Small Arms and Weapons	28,600	23,000	23,000
Total, Weapons Procurement, Navy	71,600	66,000	66,000
Procurement of Ammmunition, Navy and Marine Corps			
Navy			
Air Expendable Countermeasures	11,000	11,000	11,000
Small Arms and Landing Party Ammunition	20,959	20,959	20,959
76 MM Gun Ammunition	1,697	1,697	1,697
Other Ship Gun Ammunition	4,060	4,060	4,060
Pyrotechnics and Demolition Material	1,276	1,276	1,276
Ammo Less than $5 million	2,350	2,350	2,350
Marine Corps			
Linear Charges	8,620	8,620	8,620
Fuzes	4,516	4,516	4,516
5.56mm Ammunition	6,626	3,626	5,926
7.62mm Ammunition	3,844	2,044	3,444
.50 Cal Ammunition	7,010	3,810	6,110
40mm Ammunition	7,100	7,100	7,100
60mm Ammunition	3,277	3,277	3,277
81mm Ammunition	9,625	9,625	9,625
120mm Ammunition	18,634	18,634	18,634
25mm Amunition	4,654	4,654	4,654
9mm Ammunition	185	85	85
Grenades	5,900	5,900	5,900
Rockets	2,766	2,766	2,766
Artillery	8,432	8,432	8,432
Demolition Munitions	9,163	9,163	9,163
Items Less than $5 million	41	41	41
Total, Procurement of Ammunition Navy and Marine Corps	141,735	133,635	139,635

[In thousands of dollars]

	House	Senate	Conference
Other Procurement, Navy			
MATCALS	2,829	2,830	2,830
Gun Fire Control Equipment	600	600	600
Passenger Carrying Vehicles	223	220	220
Construction and Maintenance Equipment	5,356	5,360	5,360
Tactical Vehicles	28,228	28,227	28,227
Command Support Equipment	500	500	500
Medical Support Equipment	1,300	1,300	1,300
C4ISR Equipment	920	920	920
Physical Security Equipment	26,140	26,140	26,140
Items Less Than $5 Million	12,276	12,300	12,300
Total, Other Procurement, Navy	78,372	78,397	78,397
Procurement, Marine Corps			
AAV7A1 Product Improvement Program (PIP)	43,486	43,486	43,486
Light Armored Vehicle (LAV) Product Improvement Program (PIP)	620,705	343,210	518,205
Unit Operations Center	120,903	113,500	113,500
Night Vision Equipment	705,500	481,650	575,650
Common Computer Resources	44,155	44,160	44,155
Radio System	342,371	239,270	294,271
Communication Switching & Control Systems	64,909	64,910	64,909
Repair and Test Equipment	-	370	368
General Purpose Tools & Test Systems	-	5,910	5,910
Global Combat Support System	-	35,550	35,547
Items Under $5 Million (Comm & Elec)	-	900	900
Air Operations C2 Systems	-	8,210	8,208
Joint Tactical Radio Systems	-	1,990	1,986
RADAR SET AN/TPS-59	-	25,970	25,970
Fire Support System	-	42,770	42,767
Small Unit Remote Scouting System [SURSS]	-	500	503
Intelligence Support Equipment	-	21,290	21,289
Mod Kits (Intel)	-	80	81
Visual Information System [VIS]	-	19,630	19,630
Command Post Systems	-	3,270	3,272
Comm & Elec Infrastructure Support	-	3,240	3,238
HMMWV	236,781	186,780	216,781
Motor Transport Mods (Armor kits for MTVRs)	289,100	289,100	289,100
Medium Tactical Vehicle Replacement--MTVRs, combat losses	199,399	199,400	199,399
Logistics Vehicle System Replacement (Note: only for interim heavy lift capability)	111,139	111,140	111,139
Commercial Passenger Vehicles	-	5,000	5,000
Commercial Cargo Vehicles	-	1,160	1,159
Family of Tactical Trailers	-	19,800	19,796
Items Less Than $5 Million	-	4,400	4,396
Amphibious Raid Equipment	91,206	91,210	91,206
Family of EOD Equipment	107,672	107,672	107,672
Classified Program	1,800	1,800	1,800
Other Weapons & Combat Vehicles (various)	100,865	-	-
Improved Recovery Vehicle [IRV]	-	13,850	13,850
Modification Kits (Armor and Fire Support)	-	10,400	10,400
Maripe Enhancement Program	-	877	868
Weapons and Combat Vehicles Under $5 Million	-	28,790	28,777
Modular Weapon System	-	14,700	14,699
Operations Other Than War	-	32,270	32,271
Guided Missiles and Equipment--TOW IIB and Javelin	76,340	-	-
Javelin	-	34,540	34,540
Modification Kits	-	41,800	41,800
Other Communications & Electronic Equipment	169,730	-	-
Other Support Vehicles	30,351	-	-
Engineering & Other Equipment	232,083	-	-
Environmental Control Equipment Assort	-	6,690	6,690
Bulk Liquid Equipment	-	28,470	28,471
Tactical Fuel Systems	-	22,260	22,255
Nitrile Rubber Collapsible Storage Units	-	2,400	2,400
Demolition Support Systems	-	7,280	7,280
Power Equipment Assorted	-	40,580	40,578

[In thousands of dollars]

	House	Senate	Conference
Material Handling Equipment	-	27,580	27,575
Family of Incident Response	-	80	84
Training Devices	-	42,460	42,460
Container Family	-	1,170	1,170
Family of Construction Equipment	-	35,020	35,020
Family of Internally Transportable Veh [ITV]	-	760	759
Bridge Boats	-	12,550	12,549
Rapid Deployable Kitchen	-	-	61
Modification Kits	-	1,170	1,169
Items Less Than $5 Million	-	6,020	6,023
Total Procurement, Marine Corps	3,588,495	2,929,045	3,283,042
Aircraft Procurement, Air Force			
ATP/Rover PACMAN	2,700	2,700	2,700
C-17 LAIRCM	95,000	95,000	95,000
C-5 Missile Warning System	3,800	3,800	3,800
C-40 LAIRCM	63,600	63,600	63,600
Improved Ballistic Armor Sub-System	1,700	1,700	1,700
TARS	11,800	11,800	11,800
Improved Hoover Infra Red Suppression System (I-HIRSS)	4,700	4,700	4,700
A/OA-10 Extended Duration Covert Infrared Countermeasures System	12,400	12,400	12,400
C-130 LAIRCM	25,000	25,000	25,000
JSTARS Blue Force Situational Awareness	11,000	11,000	11,000
WRM Aerospace Ground Equipment Rotational Bomber Beddown	3,000	3,000	3,000
SENIOR SCOUT Aircraft Units	1,000	1,000	1,000
Global Hawk Mission Support Kit Spares	16,500	16,500	16,500
Global Hawk Production Delay and Disruption	1,800	1,800	1,800
U-2 SYERS-2	6,800	6,800	6,800
National Airborne Operations Center	8,441	8,441	8,441
Predator B Aircraft Initial Spares	5,000	-	5,000
Predator A Retrofit	2,000	-	-
OEF/OIF Predator B MTSB Initial Spares	3,000	-	3,000
Red Horse Response Equipment (Transfer from OPAF)	-	68	68
Total Aircraft Procurement, Air Force	279,241	269,309	277,309
Procurement of Ammunition, Air Force			
Rifle Replacements	4,100	4,100	4,100
Demolition Munitions	2,898	2,898	2,898
Total Procurement of Ammunition, Air Force	6,998	6,998	6,998
Other Procurement, Air Force			
Night Vision Goggles	2,900	2,900	2,900
Battlefield Laser Rangefinder	1,200	1,200	1,200
STEEL EAGLE (Note: of the funds provided within this line, $5 million is available only for Tactical Data Link (Project J) Equipment)	14,000	15,000	15,000
Cargo Pallets and Nets	43,828	43,957	43,957
Battlefield Development Course	1,400	1,429	1,429
Survival Radios	8,900	8,864	8,864
Red Horse Response Equipment	3,400	3,298	3,298
Special Purpose Vehicles	13,800	13,807	13,807
Red Horse Vehicles	19,200	19,220	19,220
Emergency Response Vehicles	200	160	160
EOD Tactical Radios	7,500	7,500	7,500
EOD Robotic System	300	285	285
EOD Systems	200	163	163
Deployable Independent Communication Element	4,000	4,000	4,000
Weather Observation Equipment	4,900	4,860	4,860
TPN-19 Radar Spares	2,400	2,400	2,400
Thermal Imaging Equipment	1,600	1,621	1,621

[In thousands of dollars]

	House	Senate	Conference
X-Ray Equipment	2,100	2,100	2,100
Chemical Agent Monitor	1,300	1,250	1,250
Predator Receive Terminal	1,500	1,500	1,500
Medical Equipment	1,100	1,147	1,147
Rivet Joint Support Equipment	2,500	2,500	2,500
SATCOM Equipment	1,500	1,500	1,500
ARGUS Sensors	7,700	7,700	7,700
HEU Sensors	15,600	15,600	15,600
Distributed Common Ground System	-	95,000	-
Classified Programs	2,495,499	2,394,799	2,413,599
Total Other Procurement, Air Force	2,658,527	2,653,760	2,577,560
Procurement, Defense-Wide			
Information Systems Security Program	4,400	4,400	4,400
Global Command and Control System-Joint	2,700	2,700	2,700
Teleports Program	4,500	4,500	4,500
Items Less Than $5 Million	14,700	14,700	14,700
Classified Programs	105,500	105,500	105,085
Rotary Wing Upgrades and Sustainment	4,800	4,800	4,800
Combat Talon II	30,000	30,000	60,000
C-130 Modifications	2,700	2,700	2,700
SOF Ordnance	91,000	91,000	91,000
Communications Equipment and Electronics	83,427	27,900	47,927
SOF Intelligence Systems	6,700	6,700	6,700
Small Arms and Weapons	119,600	104,100	109,100
SOF Combatant Craft Systems	8,000	8,000	8,000
Tactical Vehicles	27,200	27,200	27,200
Theater Sets	-	16,000	16,000
SOF Operational Enhancements	78,800	78,800	78,800
Electro-Optical/Infrared Ground Sensors	23,400	23,400	23,400
Chem-Bio Individual Protection	7,000	7,000	7,000
Chem-Bio Decontamination	8,000	8,000	8,000
Chem-Bio Collective Protection	8,500	8,500	8,500
Chem-Bio Contamination Avoidance	15,400	15,427	15,427
Total Procurement, Defense-Wide	646,327	591,327	645,939
Total Procurement	18,317,255	15,872,045	17,378,594

MODULARITY

The conferees direct the Secretary of Defense to submit to the congressional defense committees a report, not later than September 1, 2005, detailing the Department of Defense's long-range plan for executing and funding the Army's Modular Force initiative (Modularity). The report should identify personnel and equipment requirements, unit restructuring timelines, and associated costs. In addition, the conferees are concerned that the budgeting methods employed to support this initiative may result in inefficient program management and acquisition practices. Accordingly, the conferees direct that this report also include DoD plans to review multi-year procurement authority or any other measures to ensure the DoD can contract for required equipment as efficiently as possible.

UP-ARMORED HMMWV REPORTING REQUIREMENT

The conferees direct the Secretary of Defense to submit a report to the congressional defense committees not later than 60 days after enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, setting forth the current requirements of the Armed Forces for Up-Armored High Mobility Multipurpose Wheeled Vehicles (HMMWVs). In addition, the conferees direct the Secretary of Defense to submit a report to the congressional defense committees not later than 60 days after enactment of this Act setting forth the most effective and efficient options available to the Department of Defense for transporting Up-Armored HMMWVs to Iraq and Afghanistan.

JOINT IMPROVISED EXPLOSIVE DEVICE (IED) NEUTRALIZER

Improvised Explosive Devices (IEDs) continue to kill and seriously injure U.S. Service men and women as they prosecute the Global War on Terrorism. The conferees are deeply concerned that currently employed counter-IED technology has failed to achieve desired results for our warfighters. The conferees are aware of a new direct discharge technology, known as Joint IED Neutralizer or JIN, which has recently demonstrated the capability to effectively neutralize IEDs. The conferees strongly encourage the Department of Defense to procure and employ JIN for counter-IED operations.

LITENING PODS

The conferees clarify that funding in the bill for additional F/A–18 LITENING pods is available for all Expeditionary Marine Corps F/A–18 aircraft.

SPECIAL OPERATIONS COMMAND

The conference agreement provides $475,627,000, an increase of $55,000,000 above the President's request, as proposed by the House, for equipment required by the United States Special Operations Command (USSOCOM) to prosecute the Global War on Terrorism. The conferees agree that from the additional funding provided $20,000,000 shall be for the procurement of Multi-Band/Multi Mission radios and that $5,000,000 shall be for Silver Fox Un-

manned Aerial Vehicles. The conferees have adjusted the amounts in the project level table for the Communications Equipment and Electronics and the Small Arms and Weapons lines accordingly. The conferees are aware that, subsequent to the submission of the President's request, another Special Operations Combat Talon II aircraft was lost, significantly diminishing the combat capabilities of USSOCOM. The conferees agree that the remaining $30,000,000 of the funds provided above the request shall be used for a combat loss replacement aircraft.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement provides a total of $587,282,000 for Research, Development, Test and Evaluation appropriations, instead of $508,321,000 as proposed by the House, and $552,322,000, as proposed by the Senate. The following table identifies changes made to the request and other funding provided.

[In thousands of dollars]

Account	House	Senate	Conference
Research, Development, Test and Evaluation, Army			
Combating Terrorism, Technology Development (Note: of the funds available within this line not less than $3 million is available only for Suicide Bomber Detection and Interdiction Through Existing Sensor, Biometric, and Thermal Matrix Technologies)	17,170	17,170	17,170
Close-in APS for Stryker	-	12,000	12,000
Maneuver Control System	3,000	3,000	3,000
Force XXI Battle Command BDE and Below	200	200	200
Classified Program	4,800	4,800	4,800
Total Research, Development, Test and Evaluation, Army	25,170	37,170	37,170
Research, Development, Test and Evaluation, Navy			
USMC Advanced Technology Demo	20,171	20,171	20,171
TADIRCM for CH-53	14,900	14,900	14,900
Marine Corps Communications Systems	6,320	6,320	6,320
Classified Programs	160,660	137,660	160,660
Force Protection Applied Research/Thin Film Battery Technology	-	-	2,000
DDX Permanent Magnet Motor	-	-	[5,000]
Total, Research, Development, Test and Evaluation, Navy	202,051	179,051	204,051
Research, Development, Test and Evaluation, Air Force			
Mission Planning Systems	-	-	2,100
Global Hawk Upgrades (Note: of the funds available within this line, not less than $5 million is available only for Volumetric Radar Processing To Detect IEDs)	38,700	39,740	39,700
STEEL EAGLE	-	-	1,000
Classified Programs	79,700	89,700	99,700
Other Items	3,100	3,100	-
Total Research, Development, Test and Evaluation, Air Force	121,500	132,540	142,500
Research, Development, Test and Evaluation, Defense-Wide			
Quick Reaction Special Projects	13,100	13,100	13,100
Long Lead Items for Test GBIs	-	50,000	50,000
Classified Programs	146,500	140,461	140,461
Total, Research, Development, Test and Evaluation, Defense-Wide	159,600	203,561	203,561
Total Research, Development, Test and Evaluation	508,321	552,322	587,282

HIGH SPEED, HEAVY LIFT, SHALLOW DRAFT-CAPABLE WATERCRAFT DEMONSTRATION

The Department of Defense Appropriations Act, 2005 (Public Law 108–287) appropriated $6,300,000 under "Research, Development, Test and Evaluation, Navy" for the Varicraft program. To clarify the intent of Congress, the funding provided for this program in P. L. 108–287 is intended for the High Speed, Heavy Lift, Shallow Draft-Capable Watercraft Demonstration.

DDX PERMANENT MAGNET MOTOR

The conferees agree with language included in the Senate report regarding the DDX permanent magnet motor and direct that not less than $5,000,000 of the funds provided in this Act for "Research, Development, Test and Evaluation, Navy" be made available for this program.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

The conference agreement includes $1,511,300,000 for the Defense Working Capital Funds, instead of $1,411,300,000 as proposed by the House, and $1,311,300,000 as proposed by the Senate, to be allocated as follows:

[In thousands of dollars]

	Conference
Defense Logistics Agency (DLA) Fuel Costs.	$842,300
Military Sealift Command Fuel Costs	67,000
DLA Fuel Delivery Costs	402,000
Navy Working Capital Fund	200,000

NATIONAL DEFENSE SEALIFT FUND

The conference agreement provides $32,400,000, as proposed by both the House and the Senate.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

The conference agreement provides $210,550,000 for the Defense Health Program, instead of $175,550,000 as proposed by the House and $225,550,000 as proposed by the Senate. The increase above the request is directed to fund additional workload at Army military treatment facilities as a result of the global war on terrorism, including mental health and combat stress related care.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

The conferees strongly endorse the Senate Report language in its entirety with respect to Chemical Agents and Munitions Destruction and direct the Department of Defense to fully comply with the two reporting requirements therein.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conference agreement provides $242,000,000, instead of $257,000,000 as proposed by the House, and $227,000,000 as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

The conference agreement provides $148,000 as proposed by both the House and the Senate.

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

The conference agreement provides $250,300,000 as proposed by both the House and the Senate.

MILITARY CONSTRUCTION, ARMY

The conference agreement includes $847,191,000, instead of $930,100,000 as proposed by the House and $897,191,000 as proposed by the Senate. The conference agreement also makes these funds available until September 30, 2006 as proposed by the House, instead of September 30, 2007 as proposed by the Senate. The funds are provided as follows:

Location	Project description	Request	Conference agreement
Alaska: Fort Wainwright	Aircraft Maintenance Hangar	$31,000,000	$31,000,000
Alaska: Fort Wainwright	Site Preparation and Utility Work	11,000,000	11,000,000
Colorado: Fort Carson	Barracks—Mobilization and Training	26,000,000	26,000,000
Georgia: Fort Benning	Site Preparation and Utility Work	10,000,000	10,000,000
Kansas: Fort Riley	Barracks—Mobilization and Training	22,000,000	22,000,000
Kansas: Fort Riley	Site Preparation and Utility Work	25,000,000	25,000,000
New York: Fort Drum	Aircraft Hangar and Site Preparation	37,000,000	37,000,000
North Carolina: Fort Bragg	Site Preparation and Utility Work	19,000,000	19,000,000
Texas: Fort Bliss	Barracks—Mobilization and Training	22,000,000	22,000,000
Texas: Fort Bliss	Site Preparation and Utility Work	47,000,000	47,000,000
Afghanistan: Bagram	CMU Barracks	16,100,000	16,100,000
Afghanistan: Bagram	Fuel Tank Farm	57,000,000	.....
Afghanistan: Bagram	JSOTF–A Joint Operations Center	6,400,000	6,400,000
Afghanistan: Bagram	Prime Power Generator	31,600,000	.....
Afghanistan: Kandahar	Ammunition Supply Point	16,000,000	16,000,000
Cuba: Guantanamo Bay	Camp 6 Detention Facility	36,000,000	36,000,000
Cuba: Guantanamo Bay	Radio Range Security Fence	4,400,000	4,400,000
Iraq: Camp Hope	CMU Barracks	2,500,000	2,500,000
Iraq: Camp Taji	CMU Barracks	24,600,000	24.600,000
Iraq: Camp Warrior	Medical Facility	7,500,000	7,500,000
Iraq: Camp Warrior	Tactical Ops Building	6,100,000	6,100,000
Iraq: LSA Anaconda	Battalion and Company HQ	7,800,000	7,800,000
Iraq: LSA Anaconda	Equipment Support Activity	17,100,000	17,100,000
Iraq: LSA Anaconda	Hospital Facility	39,000,000	39,000,000
Iraq: Marez	CMU Barracks	9,300,000	9,300,000
Iraq: Marez	Combat Support Hospital	9,900,000	9,900,000
Iraq: Marez	Troop Medical Clinic	2,900,000	2,900,000
Iraq: Muthanna	Harden Ammunition Bunkers	11,300,000	11,300,000
Iraq: Various Locations	CMU Barracks	55,200,000	55,200,000
Iraq: Various Locations	Main Supply Route Aspen	36,000,000	36,000,000
Iraq: Various Locations	Overhead Cover System	300,000,000	250,000,000
Worldwide Unspecified	Planning and Design	43,400,000	39,091,000
Total		$990,100,000	$847,191,000

Overhead Cover Systems and CMU Barracks.—The conference agreement includes funds for overhead cover systems and concrete masonry unit barracks to strengthen force protection measures to better protect troops against indirect fire attack. The conferees expect the Department to focus its force protection efforts on identified threats facing troops in Operation Iraqi Freedom and Operation Enduring Freedom such as rocket propelled grenades and mortar artillery. In doing so, the Department should purchase existing force protection technology that has been field-tested and certified against such threats, including, but not limited to, mortar-proof canopies and housing and blast resistant barriers.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

The conference agreement includes $139,880,000, instead of $92,720,000 as proposed by the House and $107,380,000 as proposed by the Senate. The Conference agreement also makes these funds available until September 30, 2006 as proposed by the House, instead of September 30, 2007 as proposed by the Senate. The funds are provided as follows:

Location	Project description	Request	Conference agreement
California: Camp Pendleton	Force Intel Operations Center	$8,700,000	$8,700,000
California: Camp Pendleton	Force Recon PLT Facility	4,980,000	4,980,000
California: Twentynine Palms	LAR Company BEQ	11,900,000	11,900,000
North Carolina: Camp Lejeune	Mod 2D LAR Operations Complex	3,840,000	3,840,000
North Carolina: Camp Lejeune	Maintenance Complex, 1/9	5,880,000	5,880,000
North Carolina: Camp Lejeune	BEQ 1/9	30,480,000	30,480,000
North Carolina: Camp Lejeune	Mod Force Recon Operations Complex	3,240,000	3,240,000
North Carolina: Camp Lejeune	BEQ 2/9		32,500,000
Djibouti: Camp Lemonier	Personnel Billeting	27,710,000	27,710,000
Djibouti: Camp Lemonier	Security Fence	2,760,000	2,760,000
Worldwide Unspecified	Planning and Design	7,890,000	7,890,000
Total		$107,380,000	$139,880,000

MARINE CORPS FORCE STRUCTURE REVIEW GROUP

The Department of Defense requested $75,020,000 in emergency funding for the Marine Corps Force Structure Review Group (FSRG) initiative, which will provide additional combat forces within the Marine Corps' current end-strength of 175,000. By increasing the number of combat-ready marines while turning over less essential tasks to civilians, FSRG will help to alleviate the overall stress on the Marine Corps produced by deployments related to the Global War on Terrorism. While the conferees understand and support this initiative, they are concerned over the manner in which the military construction requirements were programmed and budgeted. Although the FSRG initiative was set in motion in April 2004, no funding for FSRG military construction was programmed into the fiscal year 2006 budget request. The Marine Corps and DOD instead chose to use this supplemental request as the sole vehicle for funding the FSRG, yet the emergency appropriation requested provides only half of the fiscal year 2005 requirement. The conferees are disappointed that the FSRG was deemed important and urgent enough to proceed immediately, yet the appropriate budgeting decisions were not given commensurate priority. The conferees expect that future military construction requests for the

Marine Corps, including any fiscal year 2006 budget amendment, will include the necessary funding to accommodate the force structure and basing decisions being made under FSRG.

The conferees also note that the request was submitted prior to the final basing decision for the second of two new infantry battalions, the 1st and 2nd Battalions, 9th Marine Regiment, to be created under FSRG. After submission of the request, the Marine Corps confirmed that both battalions will be stationed at Camp Lejeune, North Carolina. These two battalions will add 1,904 marines at Camp Lejeune, more than half of the projected net increase of 3,546 to the base population under FSRG. A field visit to Camp Lejeune confirmed that the installation does not currently have adequate billeting for the existing base population, let alone the two battalions that the Marine Corps will begin standing up this year. The present occupancy rate at the camp already greatly exceeds the Marine Corps standard, and this situation will worsen under FSRG without remedial action. The conferees believe that additional unaccompanied housing is urgently needed at Camp Lejeune, and agree to provide $32,500,000 for the construction of bachelor enlisted quarters in support of the marines of the 2/9 Battalion.

MILITARY CONSTRUCTION, AIR FORCE

The conference agreement includes $140,983,000 as proposed by the Senate, instead of $301,386,000 as proposed by the House. The conference agreement also makes these funds available until September 30, 2006 as proposed by the House, instead of September 30, 2007 as proposed by the Senate. The funds are provided as follows:

Location	Project description	Request	Conference agreement
Afghanistan: Bagram	East Side Ramp/Support Facilities/Infra	$17,600,000	$17,600,000
Afghanistan: Bagram	Control Tower	10,200,000	10,200,000
Afghanistan: Bagram	Cargo Handling Area	1,800,000	1,800,000
Afghanistan: Bagram	Coalition Forces Ramp	1,400,000	1,400,000
Iraq: Balad	CSAR/JSOAD/Medevac Alert	8,000,000	8,000,000
Iraq: Balad	Construct and Repair Munitions Roads	2,700,000	2,700,000
Iraq: Balad	Repair/Install Airfield Lighting	25,000,000	15,000,000
Iraq: Balad	Hot Cargo Pad	3,500,000	3,500,000
Iraq: Balad	Cargo/Marshalling Area	15,000,000	15,000,000
Iraq: Balad	Special Operations Compound	2,850,000	2,850,000
Iraq: Tallil	Temporary Cantonment Area	10,800,000	10,800,000
Kuwait: Ali Al Salem	Aerial Port	75,500,000	.....
UAE: Al Dhafra	ISR Launch, Recovery and Maint Complex	66,000,000	.....
UAE: Al Dhafra	Aircraft Engine Run-up Pad	1,400,000	1,400,000
Uzbekistan: Karshi-Khanabad	Replace/Extend Runway and Taxiways	42,500,000	42,500,000
Worldwide Unspecified	Planning and Design	17,270,000	8,233,000
Total		$301,520,000	$140,983,000

Aerial Port, Ali Al Salem Air Base, Kuwait.—The Air Force requests $75,500,000 to construct the first phase of an Aerial Port at Ali Al Salem Air Base in Kuwait. The conference agreement provides no funding for this facility at this time.

The conferees support the United States presence in Kuwait and appreciate the longstanding cooperation between our two nations. The conferees also recognize the desire of the Government of Kuwait to move U.S. aerial port operations out of Kuwait City

International Airport (KCIA) in order to free space at the airport for other uses. However, for several reasons, the conferees have declined to recommend funding for a new aerial port facility at this time.

The $75,500,000 in emergency supplemental appropriations requested for this facility would fund only the first phase of a nearly half-billion dollar plan for infrastructure improvements at Ali Al Salem. However, given construction times and the limited scope of the project proposed here, the first phase would provide neither emergency relief nor a complete replacement of the extant port capacity at KCIA. In addition, since submission of the supplemental request, the Air Force has learned that extensive runway repair at Ali Al Salem will be required for the base to accommodate the volume and type of air traffic envisioned in aerial port operations.

Moreover, as both the House and the Senate noted in their respective reports, the United States does not currently have a formal agreement with the host nation regarding future use of this facility or the sharing of costs for subsequent construction phases. Consequently, it is not possible for the conferees to determine the commitment the United States would be undertaking by providing the first phase of funding now. The conferees also believe that because of uncertainties regarding the future of other facilities in the region, there is some question as to whether an extensive aerial port facility in Kuwait will be required for the long-term. The conferees are not opposed to a U.S. contribution to what would be a mutually beneficial project, but encourage the Defense Department to first negotiate with the Government of Kuwait an agreement regarding appropriate phasing, use, and cost-sharing.

ISR Launch and Recovery Facility and Maintenance Complex, Al Dhafra Air Base, United Arab Emirates.—The Air Force requests $66,000,000 to build these facilities. The conference agreement provides no funding for these facilities at this time.

As with the aerial port facility in Kuwait, this facility represents more a long-term investment in enduring infrastructure than it does an immediate response to emergency requirements. ISR operations have been conducted successfully from Al Dhafra for several years and while it would be more convenient to conduct operations from permanent rather than expeditionary facilities, the conferees do not believe this is a compelling argument for emergency appropriations. As is the case with Ali Al Salem, this project is only part of extensive additional construction envisioned at Al Dhafra, yet no agreement covering use or cost sharing has been negotiated with the host nation. The conferees recognize and value the extensive and ongoing cooperation between the United States and the United Arab Emirates and are not opposed in principle to a U.S. contribution to infrastructure investments at Al Dhafra. However, the conferees believe investment in this project would be inappropriate on an emergency basis and premature at this time.

ITEMS OF INTEREST TO THE MILITARY QUALITY OF LIFE SUBCOMMITTEE OF THE HOUSE AND THE MILITARY CONSTRUCTION SUBCOMMITTEE OF THE SENATE

Requested Reports.—The Department of Defense has submitted the long overdue overseas basing master plans; therefore, the conference agreement does not include a provision under the

military construction accounts to prohibit the obligation of funds until these plans were submitted as proposed by the House. The Senate bill contained no similar provision.

The House report included a request for additional information from the Army, Marine Corps, and Air Force on issues related to the supplemental request. The Army reports were received on April 7, 2005. The Marine Corps and Air Force reports have not been received. The conferees are concerned with the Executive Branch's lack of responsiveness to Congressional requests and expect the Secretary and the Director of OMB to take steps to make this a high priority.

Budgeting for Enduring Installations.—The conferees approve of the Department's improved master planning efforts for overseas facilities, including those in the Central Command (CENTCOM) area of responsibility. A key benefit of master planning is the alignment of strategic objectives with budget needs over a long period of time. The conferees believe CENTCOM's master planning initiative is sufficiently well developed to enable future military construction at enduring facilities in the region to be incorporated into the regular authorization and appropriations process. The conferees expect the Department to pursue such initiatives through that avenue rather than through emergency appropriations.

GENERAL PROVISIONS—THIS TITLE

The conferees agree to retain and amend section 1001, as proposed by the House and Senate, which provides the Secretary of Defense authority to transfer up to $3,000,000,000 of funds made available in this title.

The conferees agree to retain and amend section 1002, as proposed by the House and the Senate, which amends section 8005 of the Department of Defense Appropriations Act, 2005 to provide an additional $2,685,000,000 in transfer authority.

The conferees agree to delete language, as proposed by the House, which provides that funds in the Defense Cooperation Account may be transferred to other defense accounts.

The conferees agree to retain section 1003, as proposed by the House and Senate, which provides that not more than $34,000,000 may be available for counter-drug activities of Afghanistan and $4,000,000 may be available for counter-drug activities of Pakistan.

The conferees agree to retain section 1004, as proposed by the House and Senate, which provides additional authority for extraordinary and emergency expenses.

The conferees agree to retain section 1005, as proposed by the House and Senate which makes technical changes to language which provides that during the current fiscal year working capital funds of the Department of Defense may increase the limitation on advance billing to $1,500,000,000.

The conferees agree to delete language, as proposed by the Senate, which provides that from funds made available in this Act under "Operation and Maintenance, Defense-Wide", $10,000,000 may be used to purchase and dispose of weapons. The conferees agree to provide for weapons buy back in section 1006, the Commander's Emergency. Response Program.

The conferees agree to retain and amend section 1006, as proposed by the House and Senate, which provides that section

1201(a) of the National Defense Authorization Act for Fiscal Year 2005, as amended by the Consolidated Appropriations Act, 2005 is further amended by striking "$500,000,000" and inserting "$854,000,000" for the Commander's Emergency Response Program.

The conferees agree to retain section 1007, as proposed by the House and Senate, which increases the amount of the funds for a classified program pursuant to section 8090(b) in Public Law 108–287.

The conferees agree to retain section 1008, as proposed by the House, which waives, for calendar year 2005 only, the $200,000 limitation on total compensation for civilian employees while in the Central Command's area of responsibility in support of military operations.

The conferees agree to retain section 1009, as proposed by the House and Senate, which provides the Director of National Intelligence (DNI) additional flexibility with respect to filling the additional positions authorized for the Office of the DNI.

The conferees agree to retain section 1010, as proposed by the House, which extends the authority for support to coalition liaison officers contained in the 2003 National Defense Authorization Act through December 31, 2005.

The conferees agree to retain section 1011, as proposed by the House and Senate, which includes a provision for authority to increase the maximum amount of the reserve affiliation bonus not to exceed $10,000.

The conferees agree to retain and amend section 1012, as proposed by the House and Senate, which amends title 38, to increase the maximum amount of coverage available for the Servicemembers' Group Life Insurance program to $400,000.

The conferees agree to retain and amend section 1013, as proposed by the House and Senate, which increases the death gratuity for combat and combat-related deaths, and provides a one-time retroactive death gratuity for—a member for the increased coverage of the Servicemembers' Group Life Insurance and increased amount of the death gratuity.

The conferees agree to delete language, as proposed by the Senate, which amends chapter 75 of title 10, to rename the death gratuity payable for deaths of members of the Armed Forces as "Fallen Hero Compensation".

The conferees agree to retain and amend section 1014, as proposed by the House and Senate, which provides that funds appropriated or made available by transfer for intelligence activities are deemed to be authorized for purposes of section 504 of the National Security Act of 1947.

The conferees agree to retain and amend section 1015, as proposed by the House and Senate, which prohibits funds provided in this Act to finance programs or activities denied by Congress, or to initiate a new start program without prior notification to the congressional defense committees, except for certain Army ammunition programs.

The conferees agree to retain and amend section 1016, as proposed by the Senate, regarding chemical weapons demilitarization and the Assembled Chemical Weapons Alternatives program.

The conferees agree to retain and amend section 1017, as proposed by the Senate, which amends section 115 of division H of the fiscal year 2004 Consolidated Appropriations Act to provide grant authority. The conferees include language to provide grant authority for Woody Island from funds available for this purpose in "Operation and Maintenance, Army" in the fiscal year 2005 Defense Appropriations Act.

The conferees agree to retain section 1018, as proposed by the Senate, which transfers $19,000,000 from "Shipbuilding and Conversion, Navy, 2005/2009" for the LCU(X) program to "Shipbuilding and Conversion, Navy, 1996/2008" for the LPD–17 program; and designates this provision as an emergency requirement.

The conferees agree to retain and amend section 1019, as proposed by the Senate, which prohibits funds, made available in this Act, or by prior Acts, to be used to implement a winner-take-all strategy for the acquisition of DD(X), the next generation Navy destroyer.

The conferees agree to retain section 1020, as proposed by the Senate, which prohibits funds appropriated to the Department of Defense, by this Act or any other Act for fiscal year 2005 or any other fiscal year, from being used for any pay raise that is based on an employee's status as a career or non-career employee.

The conferees agree to retain section 1021, as proposed by the Senate, which earmarks $12,500,000 from funds made available in the Department of Defense Appropriations Act, 2005 only for industrial mobilization capacity at Rock Island Arsenal.

The conferees agree to retain and amend section 1022, as proposed by the Senate which extends the period of temporary continuation of Basic Allowance for Housing for dependents of members of the armed forces who die while on active duty, and includes a sunset provision.

The conferees agree to delete language, as proposed by the Senate, which provides sense of the Senate language concerning the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees.

The conferees agree to retain and amend section 1023, as proposed by the Senate, which prohibits the Department from charging military personnel for meals if they are undergoing medical recuperation or therapy at a military treatment facility.

The conferees agree to delete language, as proposed by the Senate, which prohibits funds to be obligated to implement or enforce certain orders and guidance, dated May 15, 2003, on the functions and duties of the General Counsel and Judge Advocate General of the Air Force.

The conferees agree to retain section 1024, as proposed by the Senate, which includes sense of the Senate language that any request for funds after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget for that fiscal year.

The conferees agree to delete language, as proposed by the Senate, requiring the President to submit to Congress reports concerning Iraqi security forces. Instead, the agreement includes a modified set of reporting requirements in the Statement of the Managers.

The conferees agree to delete language, as proposed by the Senate, requiring the Secretary of the Army to report to the congressional defense committees on the feasibility of implementing for the Army National Guard a program similar to the Post Deployment Stand-Down Program of the Air National Guard. This reporting requirement is addressed in the Statement of the Managers.

The conferees agree to retain and amend section 1025, as proposed by the Senate, which provide that funds available to the Department of the Navy in this Act will be provided for repair and maintenance of the USS *John F. Kennedy* to extend the life of the carrier; prohibits funds available in this Act to be used to reduce the number of active aircraft carriers of the Navy below 12 until the Quadrennial Defense Review is submitted to Congress; and prohibits the Department of the Navy from changing command relationships to give Fleet Forces Command administrative and operational control of the Pacific Fleet.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language concerning the domestic manufacturing capability to produce silicon carbide powders for use in the production of ceramic armor plates for armored vehicles, personal body armor systems, and other armor needs.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language concerning the procurement of Rapid Wall Breaching Kits for use in Operation Iraqi Freedom and Operation Enduring Freedom.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language to increase the amount of funds available for "Operation and Maintenance, Army Reserve" for tuition assistance programs. The conferees recommend an additional $5,000,000 for "Operation and Maintenance, Army Reserve" for tuition assistance programs, and address this issue in the Statement of Managers.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language to make funds available from within "Defense Health Program" for Vaccine Health Care Centers.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language concerning Warlock and other field jamming systems, and address this elsewhere in the Statement of the Managers.

The conferees agree to retain and amend section 1026, as proposed by the Senate, which changes the application of section 411h of title 37 U.S.C. to provide through September 30, 2005 for one roundtrip to family members of seriously ill or injured military personnel hospitalized in a medical facility in or outside the United States, and family members of service members receiving treatment for injuries incurred in a combat area in a medical treatment facility in the United States; provides for funding from the services' operation and maintenance accounts; and requires the Secretary of Defense to report to the congressional defense committees on travel in any fiscal year that exceeds $20,000,000.

The conferees agree to retain section 1027, as proposed by the Senate, which prohibits the use of funds in this Act for termination

of the existing joint service multiyear procurement contract for C/KC–130J aircraft.

The conferees agree to delete language, as proposed by the Senate, which provides for the procurement of Up-Armored High Mobility Multipurpose Wheeled Vehicles (HMMWVs), and address this in the Statement of the Managers.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language to amend section 1079 of title 10, in order to increase the period of TRICARE coverage for children of servicemembers who die while on active duty.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language concerning the continuing development of the permanent magnet motor, and address this elsewhere in the Statement of the Managers.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language concerning the Man-Portable Air Defense (MANPAD) systems.

The conferees agree to delete language, as proposed by the Senate, which includes sense of the Senate language that funds should be made available for the replenishment of medical supply and equipment needs of the Army, and address this in the Statement of the Managers.

The conferees agree to include a new section 1028, which prohibits funds in this Act to 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.

The conferees agree to include a new section 1029, which transfers $2,000,000 from "Aircraft Procurement, Army" to "Research, Development, Test and Evaluation, Army" for the Virtual Training Cockpit Optimization Program.

The conferees agree to retain and amend section 1030, as proposed by the House, which makes certain technical adjustments and directs the transfer of funds for the purpose of ensuring proper budget execution for critical force protection items previously funded.

The conferees agree to retain section 1031, as proposed by the Senate, which prohibits funds to be obligated to subject any person in custody or under the control of the United States to torture or cruel, inhuman, or degrading treatment or punishment.

The conferees agree to retain section 1032, as proposed by the Senate, which amends title 38, to provide a traumatic injury protection rider to servicemembers insured through the Servicemembers' Group Life Insurance (SGLI) under section 1967(a)(1) of title 38.

The conferees agree to include a new section 1033, which rescinds $50,000,000 from the "Iraq Freedom Fund".

The conferees agree to include a new section 1034, making technical corrections to Public Law 108–287 making available existing funds to the Paralyzed Veterans of America (PVA) Outdoor Sports Heritage Fund.

The conferees agree to a new section 1035 which provides an additional appropriation for "Research, Development, Test and

Evaluation, Defense-Wide", and provides authority for certain specified activities.

Sec. 1036. The conference agreement includes a provision proposed by the Senate (Sec. 1129) to require a report on the re-use and redevelopment of military installations closed or realigned as part of BRAC 2005. The House bill contained no similar provision.

Sec. 1037. The conference agreement includes a provision proposed by the Senate (Sec. 6055) to release to the State of Arkansas a reversionary interest in Camp Joseph T. Robinson. The House bill contained no similar provision.

The conference agreement does not include a sense of the Senate provision (Sec. 1137) on funding for the Vaccine Health Care Centers. The House bill contained no similar provision.

The conference agreement does not include a sense of the Senate provision (Sec. 1142) on TRICARE coverage of children. The House bill contained no similar provision.

The conference agreement does not include a Senate amendment to permit eleven employees of the Executive Office of the President to use official government vehicles for commuting between their homes and offices.

The conference agreement does not include a Senate amendment regarding federal employee pay while in active service of the National Guard.

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

The conference agreement includes $240,000,000 for P.L. 480 Title II grants, to remain available until expended, instead of $150,000,000, as proposed by the House and $470,000,000, as proposed by the Senate.

This appropriation shall be used to reimburse the account for funds used to address emergency food needs for individuals in need of humanitarian assistance in the Darfur region of Sudan and other parts of Africa, which would allow additional contributions to these and other critical food situations, including the mitigation of the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on individuals, households, and communities. In addition, the conferees provide that funds may be used to restore executed agreements of the Public Law Title II non-emergency sub-minimum program requirements, as proposed by the Senate.

CHAPTER 2

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes $734,000,000 for "Diplomatic and Consular Programs", instead of $748,500,000 as proposed by the House, $357,700,000, as proposed by the Senate, and $767,200,000 as contained in the request. The agreement provides $666,300,000 for the operation and security costs of the U.S. Mission in Iraq. Within the amounts included under this heading, $10,000,000 is for the enhancement of Embassy security in Iraq and Afghanistan through explosive detection technologies certified and/or deployed by the Department of Homeland Security, and $250,000 is designated for Iraqi and Afghan scholars, as proposed by the Senate. The conference agreement also includes $60,000,000 for operations and security requirements of the U.S. Mission in Kabul, Afghanistan as a result of the withdrawal of U.S. military forces. Finally, the conference agreement includes $7,700,000 for the Office of the Coordinator for Reconstruction and Stabilization, and expects these funds to support additional personnel requirements in Washington and Sudan.

The conference agreement includes $250,000 for a contribution to a scholar-rescue program designed to bring Iraqi and Afghan scholars, whose lives are in imminent danger, to the United States and match them with host universities. The conferees direct the Secretary of State to work with the Institute of International Education to implement this program.

The conferees agree that within the amounts previously appropriated for fiscal year 2005, the Secretary of State shall fund an external study of the publicly available data on foreign public opinion about the United States. This study should include a thorough analysis of the impact of foreign perceptions of the United States, and a list of concrete responses and 'best practice' actions at the governmental level that have the potential to influence the public foreign policy debate and mitigate the impact of negative perceptions.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The conference agreement includes $592,000,000 for the construction of a new secure embassy compound in Baghdad, Iraq, including office, housing, and support facilities, infrastructure, project supervision, and construction security as proposed by both the House and Senate. The conferees expect the recommended funding level to be sufficient to ensure completion of a secure compound within 24 months of the project start date.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $680,000,000 for United States assessed contributions for international peacekeeping missions instead of $580,000,000 as proposed by the House, $533,049,000 as proposed by the Senate, and $780,000,000 as contained in the request. Of the amount provided, up to $50,000,000 may be transferred to the "Peacekeeping Operations" account for support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

The conference agreement includes $4,800,000 to expand United States broadcasting programs in local languages to Pakistan, Iran, Indonesia, and Muslim populations in Europe.

BROADCASTING CAPITAL IMPROVEMENTS

The conference agreement includes $2,500,000 to make capital improvements related to broadcasting, including broadcasting directed toward the People's Republic of China.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

The conference agreement provides $90,000,000 for "International Disaster and Famine Assistance", instead of $94,000,000 as recommended by the House and $44,000,000 as recommended by the Senate.

The conferees intend that $40,000,000 of funds made available from this account be provided for assistance for those individuals affected by the ongoing conflict in Darfur. The conferees are also concerned about the severity of other needs in Africa, and allocate $50,000,000 of funds from this account to these other needs, including those in Ethiopia, Liberia, Uganda, and the Democratic Republic of the Congo.

The conferees include language as proposed by the Senate that provides authority to United States Agency for International Development (USAID) to use funds appropriated under this heading to reimburse accounts from which obligations were incurred prior to the enactment of this Act.

TRANSITION INITIATIVES

The conference agreement does not include funding for "Transition Initiatives".

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The conference agreement provides $24,400,000 for "Operating Expenses of the United States Agency for International Development" for security and extraordinary operating costs in Iraq.

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

The conference agreement provides $2,500,000 for "Operating Expenses of the United States Agency for International Development Office of Inspector General" to audit the expenditure of funds used for relief and reconstruction in Iraq.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

The conference agreement provides $1,433,600,000 for the "Economic Support Fund", instead of $1,058,200,000 as proposed by the House and $1,636,300,000 as proposed by the Senate. These funds would remain available until September 30, 2006.

The conference agreement includes $1,086,600,000 for Afghanistan, $200,000,000 for assistance to Palestinians, of which $50,000,000 should be for assistance for Israel to help ease the movement of Palestinian people and goods in and out of Israel, $20,000,000 for Haiti, $5,000,000 for Lebanon, $100,000,000 for Jordan, and $22,000,000 for Sudan.

The conference agreement provides $1,086,600,000 for Afghanistan under this heading, instead of $739,200,000 as proposed by the House and $1,309,300,000 as proposed by the Senate. The conference agreement assumes full funding for health programs and provincial reconstruction team expenses and support. The conferees direct the Department of State to consult with the Committees on Appropriations prior to the obligation of funds.

The conferees reiterate their firm commitment to the long term development of Afghanistan and note that the fiscal year 2006 budget request for that country contains an additional $920,000,000 from all accounts.

The conference agreement does not include Senate language recommending $5,000,000 for Afghan women's organizations. However, the conferees believe that USAID needs to be more proactive in assisting women-led nongovernmental organizations in Afghanistan, particularly those that defend women's rights and support women's efforts to participate in the political process. The conferees recommend that $5,000,000 be made available to strengthen the capacity of these organizations.

The conference agreement includes language similar to a Senate amendment that provides $5,000,000 for assistance for displaced persons in Afghanistan. The conferees intend that these funds be used to address the needs of displaced Afghans, but that none of these funds are to be used to support a satellite city housing project. The conferees request to be consulted prior to the obligation of these funds.

The conference agreement does not include a reporting requirement on Afghan security forces training, as proposed by the Senate

in section 2108. However, the conferees direct the Department of State to submit such a report to the Committees on Appropriations no later than 90 days after enactment of this Act.

The conference agreement includes $22,000,000 to support emergency needs in the implementation of the Comprehensive Peace Agreement in southern Sudan. These needs include the development of southern governmental institutions and support for the commissions established in the North-South peace accords.

The conferees recognize the importance of adequate health care for Palestinian women and children and recommend $3,500,000 to support the activities of the Holy Family Hospital in Bethlehem and $2,000,000 to support the healthcare activities of Hadassah, the Women's Zionist Organization of America.

The conferees agree that the budget request and the recommendation contained in this Act do not provide specific direct financial support for the Palestinian Authority.

The conferees reiterate that the conditions and restrictions on assistance for the West Bank, Gaza, and Palestinian Authority contained in the General Provisions section of division D of Public Law 108–447 apply to assistance for the West Bank and Gaza recommended under this heading, as well as the separate account requirement contained in section 529 of that law. The conferees further agree that the waiver detailed in Presidential determination 2005–10 shall not be extended to funds appropriated under this Chapter.

The conference agreement includes a provision providing $50,000,000 for assistance for Israel to help improve the movement of people and goods in and out of Israel, as proposed by the Senate. The conferees are aware that infrastructure will be needed on both the Palestinian and Israeli sides of the separation lines and intend that these funds be used to meet the great need in developing this infrastructure. The resulting flow of goods and people should greatly improve the economic well-being of the Palestinian people while building the revenue base of the Palestinian Authority.

The $200,000,000 provided in this account shall only be allocated as requested and detailed in the following table. The Administration may reallocate, only within the projects listed here, up to 10 percent of any of the following allocations, except that the total for the allocation receiving such funds may not be increased by more than 20 percent. Any reallocations shall be subject to prior consultations with the Committees on Appropriations.

[In thousands of dollars]

Economic Revitalization:	
Palestinian agriculture and agribusiness production and marketing	$15,000
Trade promotion and capacity building	24,000
Home construction financing	1,000
Job creation, with an emphasis on construction of schools and community centers	20,000
Improved flow of people and goods into Israel	50,000
Subtotal, Economic Revitalization	110,000
Infrastructure Development:	
Roads and water	50,000
Democratic reform and the rule of law	16,000
Community Policing	3,000
Education, including vocational training	8,000
Health care and food assistance	13,000

Subtotal, Infrastructure Development	90,000
Total	$200,000,000

The conference agreement provides $20,000,000 for assistance for Haiti, of which $2,500,000 is for criminal case management, case tracking and the reduction of pre-trial detention. The conferees are concerned with the prolonged detention of Haitians, many of whom have not been charged with any crime, which is both illegal and life threatening. The conferees intend that USAID will take immediate steps to address this potentially explosive situation. The conferees expect the balance of funds to be made available to address urgent and pressing needs for additional election assistance, employment and public works projects, and police assistance. The conferees direct that the obligation of funds be subject to prior consultation with the Committees on Appropriations.

The conferees note recent political developments in Lebanon and provide $5,000,000 for support of democracy activities and programs. The conferees expect these funds to be managed by Bureau of Democracy, Human Rights and Labor at the Department of State.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

The conference report includes $70,000,000 for "Assistance for the Independent States of the Former Soviet Union", as proposed by the Senate, instead of $33,700,000 as proposed by the House.

Funds in this account are allocated in the following table and, as stipulated in section 2111, any change to these allocations is subject to the regular reprogramming procedures of the Committees on Appropriations:

Assistance for the Independent States of the Former Soviet Union

[In thousands of dollars]

Ukraine	$60,000
North Caucasus	5,000
Belarus	5,000
Total	$70,000

The conferees are encouraged by recent political developments in Ukraine and recommend $60,000,000 for assistance for that country. This funding should be used for programs to further political and economic reforms and to strengthen democracy and the rule of law.

The conference agreement provides $5,000,000 for humanitarian, conflict mitigation, and relief and recovery assistance for needy families and communities in Chechnya, Ingushetia, and elsewhere in the North Caucasus. The conferees intend these funds to be administered by USAID's Moscow Mission and Office of Conflict Management and Mitigation, in consultation with the Committees on Appropriations.

The conferees expect that of the funds made available for democracy assistance for Belarus, $2,500,000 will be made available to the Bureau of Democracy, Human Rights and Labor, Department of State, for political party development activities. The conferees recommend that the balance of funds be used to support independent media and civil society in Belarus.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The conference agreement includes $620,000,000 for "International Narcotics Control and Law Enforcement", instead of $594,000,000 as proposed by the House and $660,000,000 as proposed by the Senate. These funds remain available for obligation until September 30, 2007.

The conferees expect that of the funds provided under this heading, $260,000,000 shall be made available for counternarcotics programs and activities.

MIGRATION AND REFUGEE ASSISTANCE

The conference agreement provides $120,400,000 for "Migration and Refugee Assistance" instead of $103,400,000 as proposed by the House or $108,400,000 as proposed by the Senate. Of the total, the conferees include $48,400,000 for assistance to those individuals affected by the ongoing conflict in Darfur, $5,000,000 for easing the flow of refugees returning to southern Sudan, $26,000,000 to help the Administration meet its fiscal year 2005 refugee protection goals, and $41,000,000 for assistance needs in Africa other than in southern Sudan and Darfur.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

The conference agreement provides $24,600,000 for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" instead of $17,100,000 as proposed by the House and $32,100,000 as proposed by the Senate. The conferees intend for the funds to be used as follows: $17,100,000 for the protection of Afghan President Karzai, as requested, and $7,500,000 for the Non-proliferation and Disarmament Fund. These funds remain available until September 30, 2006.

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

GLOBAL WAR ON TERROR PARTNERS FUND

(INCLUDING TRANSFER OF FUNDS)

The conference agreement does not include funding for the Global War on Terror Partners Fund. The House did not recommend funding for this account, and the Senate proposed $25,500,000. Funding for the purposes of the Solidarity Initiative is addressed under "Peacekeeping Operations".

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

The conference agreement includes $250,000,000 for "Foreign Military Financing Program", as proposed by the House and Senate and as contained in the request. The conferees recommend $150,000,000 for Pakistan and $100,000,000 for Jordan.

PEACEKEEPING OPERATIONS

The conference agreement includes $240,000,000 for "Peacekeeping Operations" instead of $10,000,000 as proposed by the House and $210,000,000 as proposed by the Senate. Of these funds, $10,000,000 is for the reform of security forces in southern Sudan, up to $200,000,000 for assistance to coalition allies with troops in Iraq and Afghanistan, and up to $30,000,000 that may be used 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. This funding could be used, for example, for training and equipment of foreign counter-terrorism forces or border security forces. The conferees commend the President's Solidarity Initiative.

GENERAL PROVISIONS—THIS CHAPTER

Sec. 2101. The conference agreement includes a general provision proposed by the Senate, and similar to that proposed by the House, that amends section 307(a) of the Foreign Assistance Act of 1961 by striking "Iraq" from the list of countries for which the United States would otherwise be required to withhold voluntary contributions.

Sec. 2102. The conference agreement includes a general provision as proposed by the House and Senate that rescinds previously appropriated funds for Turkey in P.L. 108–11. The conferees intend that any costs associated with the rescission of funds, and termination of planned programs, may be funded from within the subject unexpended balances.

Sec. 2103. The conference agreement includes a general provision proposed by the House bill, regarding audit requirements for U.S. bilateral assistance made available under "Economic Support Fund" for assistance for the West Bank and Gaza and assistance for the Palestinian Authority.

Sec. 2104. The conference agreement includes a general provision proposed by the House that establishes financial reporting requirements for funds appropriated in this chapter prior to their obligation. The purpose of the financial plan is to ensure that the Committees on Appropriations have a complete and detailed understanding of how agencies intend to use the resources provided in this chapter. The provision allows 15 percent of funds to be obligated prior to the submission of the financial report, which is due 30 days after enactment. This restriction on new obligations does not apply to funds used to reimburse accounts for obligations made prior to enactment.

Sec. 2105. The conference agreement includes a general provision, as proposed by the House, that establishes certain auditing requirements for counternarcotics and alternative development funding in fiscal year 2005 in Afghanistan.

Sec. 2106. The conference agreement includes a provision, similar to that proposed by the House and Senate, regarding a reporting requirement regarding the Palestinian Authority, and provides that up to $5,000,000 from funds provided for the West Bank and Gaza may be used for an independent audit of Palestinian Authority expenditures and accounting procedures.

Sec. 2107. The conference agreement includes a provision allowing certain amounts in the fiscal year 2005 State Department Appropriations Act to be subject to certain reprogramming requirements, as proposed by the Senate.

Sec. 2108. The conference agreement includes a general provision similar to that proposed by the Senate, which earmarks $20,000,000 provided in Public Law 108–106 under the heading "Iraq Relief and Reconstruction Fund" for assistance for families and communities of innocent Iraqi victims of the military operations. This assistance is designated as the "Marla Ruzicka Iraqi War Victims Fund", in memory of Marla Ruzicka who on April 16, 2005, died at the age of 28 in a car bomb attack in Baghdad. Marla Ruzicka inspired the creation of this program and a similar program in Afghanistan.

Sec. 2109. The conference agreement includes a general provision, as proposed by the Senate, that makes a technical change to the Millennium Challenge Authorization Act, 2003.

Sec. 2110. The conference agreement includes a provision, similar to that proposed by the House, requiring that recipients of United States emergency humanitarian assistance establish a code of conduct consistent with internationally accepted principles established to protect victims of disasters from exploitation.

Sec. 2111. The conference agreement includes a new provision requiring that funds in the following accounts be allocated as indicated in the statement of managers accompanying this Act: "Economic Support Fund" and "Assistance for the Independent States of the Former Soviet Union". Any change to these allocations is subject to the regular notification procedures of the Committees on Appropriations.

The conference agreement does not include Senate sections 2104, 2107, 2108, and 2111.

TITLE III—DOMESTIC APPROPRIATIONS FOR THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF ENERGY

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

The conference agreement provides $84,000,000 for defense nuclear nonproliferation, of which $55,000,000 is to address urgent priorities outside of the former Soviet Union to secure nuclear materials from diversion or theft by terrorists or states of concern, and $29,000,000 is for the deployment of radiation detection equipment and the training of law enforcement officials in overseas ports to provide them with the technical means to detect, deter, and interdict illicit trafficking in nuclear and other radioactive materials through the MegaPorts program.

CHAPTER 2

DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The conferees provide $124,425,000 for costs associated with hiring, training, equipping and supporting 500 Border Patrol agents, instead of $105,451,000 as proposed by the Senate and no funding as proposed by the House. Funds are to remain available until September 30, 2006. Of this amount, $49,075,000 in new funding is provided and designated an emergency requirement. The conferees have included bill language that requires the Secretary of Homeland Security to provide the Committees on Appropriations a plan not later than June 15, 2005, for the expeditious implementation and execution of these funds.

The conferees are concerned that the amounts appropriated in Public Laws 107–117 and 108–11 for "Customs and Border Protection" have not been fully obligated. The conferees direct the Secretary of Homeland Security to immediately utilize the remaining funds for the purposes appropriated. The conferees further direct the Secretary to submit, within 30 days of enactment of this Act, a plan for the obligation of these funds.

CONSTRUCTION

The conferees provide $51,875,000 for construction costs associated with hiring an additional 500 Border Patrol agents, instead of $41,500,000 as proposed by the Senate, and no funding proposed by the House. Funding is to remain available until September 30, 2006. The conferees have included bill language that requires the Secretary of Homeland Security to provide the Committees on Appropriations a plan not later than June 15, 2005, for the expeditious implementation and execution of these funds. This funding is designated an emergency requirement.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The conferees provide a total of $454,250,000 for Immigration and Customs Enforcement, Salaries and Expenses, as opposed to $276,000,000 proposed by the Senate and no funding as proposed by the House. Of these funds, $349,050,000 is designated as an emergency requirement. Of this amount, $93,050,000 is made available to fund an additional 50 criminal investigator positions, 168 Immigration Enforcement Agents and Deportation Officers, and 1,950 additional detention beds; and not less than $11,000,000 is made available to immediately lift the hiring freeze. The conferees do not provide the $389,613,000 in non-emergency funding that was proposed by the Senate.

The conferees endorse the views expressed in the Senate Committee report (Senate Report 109–152), and direct Immigration and Customs Enforcement (ICE) to realign its Detention and Removal Operation Program, by program, project, and activity, as set forth on pages 51 and 52 of that report. The conferees also direct ICE

to make available additional user fees as set forth on page 52 of that report. Because the conferees have included funds above the realigned amounts referenced above, in lieu of the Senate reporting requirement, the conferees direct the Secretary to submit a detailed report by June 15, 2005, to the Committees on Appropriations on the Department's plan for an expeditious implementation of the hiring and spending authorized in this Act, showing the on-board level of FTEs for each individual office by location; the number of vacant FTEs; and the new hires planned by week for each office beginning the week after enactment of this Act through September 30, 2005.

The conferees are aware that ICE has been unable to obligate for fiscal year 2005 enhancements and initiatives due to the uncertainty of its financial condition and its pending reprogramming. The conferees wish to ensure that these programs are initiated in an orderly way, that requisite funds do not lapse, and that continuity of funding is assured. Therefore, within the total amounts provided, the conferees include $85,200,000, offset by a rescission, and direct the Department to include funding required to annualize and continue activities supported with these funds in its fiscal year 2007 budget.

UNITED STATES COAST GUARD

OPERATING EXPENSES

The conference agreement includes $111,950,000 for U.S. Coast Guard operations in support of Operation Iraqi Freedom and Operation Enduring Freedom as proposed by both the House and the Senate. The entire amount is designated as an emergency requirement.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conference agreement includes $49,200,000 as proposed by the House and the Senate, to remain available until September 30, 2007. The conferees agree that the funds may be used for procurement of new U.S. Coast Guard 110-foot patrol boats or major refits, renovation, and subsystem replacement for these boats, as proposed by the House. The Senate proposed this funding be used only for renovation and subsystem replacement. The entire amount is designated as an emergency requirement.

By July 1, 2005, or prior to the obligation of funds, the Coast Guard is directed to provide to the House and Senate Appropriations Committees an analysis of the costs and benefits of procuring new 110-foot or 123-foot patrol boats versus renovating the existing 110-foot patrol boats. This analysis is to include the expected available patrol boat mission hours over the next 10 years with the existing fleet versus the yearly mission hours conducted since 9/11 and the 10-year projected mission hour needs. The analysis should explain how the Coast Guard intends to meet the mission needs filled by the 110-foot patrol boat. The conferees note that this information was first requested in 2004 as part of the statement of managers accompanying Public Law 108–334. The report was due on February 10, 2005, but has not been received to date.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees provide funding for the Federal Law Enforcement Training Center salaries and expenses of $2,568,000 and make the funding available until September 30, 2006, to accommodate the training for new Border Patrol Agents and Immigration and Customs Enforcement agents and officers.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees provide $1,882,000 for facilities, to remain available until September 30, 2006, for costs associated with additional Border Patrol and ICE training.

CHAPTER 3

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

DETENTION TRUSTEE

The conference agreement includes $184,000,000 for the Detention Trustee account. Funding is provided in lieu of any previous transfers made into this account in fiscal year 2005 from the Asset Forfeiture Fund.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

The conference agreement includes a rescission of $40,000,000 from unobligated balances in this account.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

The conference agreement provides $11,935,000 for the United States Marshals Service (USMS) as proposed by the Senate. Recent events prove a need for increased judicial security outside of courthouse facilities to better detect, assess and respond to threats and inappropriate communications made to judges. The conference agreement provides this funding for off-site security enhancements for judges, such as home intrusion detection systems. In coordination with the Administrative Office of the United States Courts, the USMS shall submit a spending plan to the Committees on Appropriations prior to the obligation of any of these funds. The conferees also believe the USMS should reevaluate existing policies governing judicial protection and direct the USMS to submit a report on its updated policies to the Committees on Appropriations no later than July 30, 2005.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The conference agreement provides $73,991,000 for the Federal Bureau of Investigation (FBI), instead of $78,970,000 as proposed by the House and $66,512,000 as proposed by the Senate. The conferees strongly support the FBI's deployment in Iraq and the operations of the Terrorist Screening Center. However, the conferees are disappointed that the fiscal year 2005 budget request did not include sufficient funding for these critical ongoing operations. If additional resources are needed for either of these activities, the conferees will support a reprogramming of funding from lower priority programs.

Iraqi Operations.—The conference agreement includes $34,531,000 for operations in Iraq instead of $40,000,000 as proposed by the House and $29,062,000 as proposed by the Senate.

Terrorist Screening Center (TSC).—The conference agreement includes $35,210,000 for TSC instead of $38,970,000 as proposed by the House and $31,450,000 as proposed by the Senate. The conference agreement adopts the House and Senate report language expressing concern about TSC's continued reliance on temporary duty staff to perform this critical mission.

The conference agreement adopts the House report language requiring the Office of Inspector General to evaluate TSC's plan to support the Secure Flight program. The report to the House and Senate Appropriations Committees shall be submitted by August 1, 2005. The conference agreement adopts the Senate report language requiring submission of a long-term plan for TSC to be submitted no later than September 1, 2005. The report shall include the following: (1) a five year staffing and spending plan for TSC; (2) a list of TSC's existing and projected users, their sponsoring agency, and that agency's financial and in-kind contributions to TSC; (3) a comprehensive description and direct cost estimate of the unique needs of these users by agency, fiscal year, project, program and activity; (4) an estimated cost on a by-user basis (including a listing of each user agency); and (5) any additional TSC requirements and the costs associated with those requirements.

Office of Inspector General.—The conference agreement includes $1,250,000 to be transferred to the Office of Inspector General (OIG) to support the OIG's review of the TSC and other counterterrorism activities.

Special Technologies and Applications Section (STAS).—The conference agreement includes $3,000,000 for STAS, instead of no funding as proposed by the House and $6,000,000 as proposed by the Senate. This funding is provided to accelerate the development and deployment of intelligence analysis tools.

The conferees are aware of the unique space requirements of the STAS and direct STAS to work with the General Services Administration and to use existing resources to lease up to 175,000 square feet of additional facility space within its immediate surrounding area.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $7,648,000 as proposed by the House and Senate, for the Drug Enforcement Administration's counternarcotics efforts to reduce poppy and heroin production in Afghanistan.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

The conferees recommend $4,000,000 for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), instead of $5,100,000 as proposed by the Senate. The House did not propose any funding for this account.

This funding is provided to support ATF's on-going activities in the Iraq theater of operations, including assistance to the U.S. military. Within the amount provided, $2,100,000 shall be for expenditures in direct support of explosives enforcement and firearms tracking in Iraq; $400,000 shall be for a Combined Explosives Exploitation Cell to provide improvised explosive device (IED) technical support to the Department of Defense components in Iraq; and $1,500,000 for operations to track explosives incidents in Iraq in a centralized database and to provide technical expertise in the exploitation of IED's. The conferees direct that, prior to the obligation of the funds for a centralized database, the ATF shall submit a plan to the Committees on Appropriations that identifies the timetable, requirements, scope and costs related to its creation.

CHAPTER 4

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

The conference agreement includes the customary death gratuity to Doris K. Matsui, widow of Robert T. Matsui, late a Representative from the State of California.

SALARIES AND EXPENSES

The conference agreement includes $39,000,000 for House operations related to Business Continuity/Disaster Recovery, secure and digital mail, and information system security.

ADMINISTRATIVE PROVISIONS

The conference agreement includes an administrative provision related to the deposit of fees. In addition, language is included making a technical correction for the chair of the Committee on Appropriations, or his designee, of the House of Representatives to be a member of the Joint Committee on the Library and the Board of Trustees of the Open World Leadership Program.

CAPITOL POLICE

GENERAL EXPENSES

The conference agreement provides an additional amount of $11,000,000 for General Expenses, Capitol Police. This includes $2,600,000 for technical counter measures during the construction of the Capitol Visitor Center. The conferees direct the Capitol Police to purchase the necessary equipment for the Security Services Bureau with available unobligated balances. In addition, $8,400,000 is provided for the purchase of escape hoods for the Capitol Complex. The conference agreement does not provide funding for radio system repairs and security infrastructure for the Fairchild Building, as proposed by the Senate. The Capitol Police are directed to fund these items with available unobligated balances.

ARCHITECT OF THE CAPITOL

CAPITOL GROUNDS

The conference agreement provides an additional amount of $8,200,000, to remain available until September 30, 2006, to complete perimeter security for the Capitol Square.

CAPITOL POLICE BUILDINGS AND GROUNDS

The conferees have agreed to provide $2,500,000 for an Interim Offsite Delivery/Screening Facility and $1,600,000 for design of a permanent Offsite Delivery/Screening Facility, both to be located at DC Village. The conferees expect that the Architect will move expeditiously to complete this critical project and keep the Committees apprised of progress on a regular basis.

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)

The conference agreement provides $656,000,000 for emergency relief, rehabilitation and reconstruction aid to countries affected by the tsunami of December 26, 2004 and the earthquakes of December 2004 and March 2005, as proposed by the Senate instead of $659,000,000 as proposed by the House.

The conference agreement authorizes the Secretary of State to transfer funds to any Federal agency or account for activities authorized under the Foreign Assistance Act of 1961 or under the Agricultural Trade Development and Assistance Act of 1954. Of these funds, up to $17,500,000 may be transferred to USAID's operating expenses and $1,000,000 may be transferred to USAID's Office of Inspector General to cover the unexpected costs of administering and auditing the assistance.

The conference agreement includes authority, as proposed by the Senate, to use funds appropriated under this heading to address the potential health crisis should the avian influenza virus become pandemic in Southeast Asia. The Committees on Appropriations expect to be consulted prior to the obligation or expenditure of such funds.

The conference agreement allows $10,000,000 to be transferred to and consolidated with USAID's "Development Credit Authority" for the cost of direct loans and loan guarantees. An additional $5,000,000 may be transferred to and consolidated with the State Department's "Emergencies in the Diplomatic and Consular Service" account.

The conference agreement provides authority for the United States to participate with other countries in a multilateral agreement to defer and reschedule the debt owed to United States Government agencies by the governments of countries affected by the tsunami and earthquakes. To get their debt rescheduled, the governments of these countries must commit to provide an equivalent amount of resources to the victims of the natural disasters. To ensure transparency, the Secretary of State is required to arrange for an outside independent evaluation of each country's compliance with the commitment.

The conference agreement provides $5,000,000 to support environmental recovery activities in tsunami-affected countries.

The conference agreement provides $10,000,000 for programs and activities that create new economic opportunities for women. The conferees recommend $10,000,000 for small grants to support training and equipment for women-led, local non-governmental organizations.

The conference agreement provides $1,500,000 to support initiatives for the protection of women and children from violence, trafficking and exploitation.

The conference agreement provides $1,500,000 for programs to address the needs of people with disabilities resulting from injuries and trauma caused by the tsunami, instead of $12,000,000 as proposed by the Senate.

The conference agreement provides that $12,500,000 should be made available to support initiatives that focus on the immediate and long-term needs of children.

GENERAL PROVISIONS—THIS CHAPTER

Sec. 4101. The conference report includes a general provision proposed by both the House and Senate that provides that amounts provided under this chapter shall be in addition to amounts that may be obligated in fiscal year 2005 under section 492(b) of the Foreign Assistance Act of 1961.

Sec. 4102. The conference agreement includes a general provision proposed by the House that establishes financial reporting requirements for funds appropriated in this chapter prior to their obligation. The purpose of the financial plan is to ensure that the Committees on Appropriations have a complete and detailed understanding of how agencies intend to use the resources provided in this chapter. The provision allows 15 percent of funds to be obligated prior to the submission of the financial report, which is due 30 days after enactment. This restriction on new obligations does

not apply to funds used to reimburse accounts for obligations made prior to enactment. The Senate bill did not address this provision.

Sec. 4103. The conference agreement includes a general provision similar to that proposed by both the House and Senate that allows funds appropriated to be obligated and expended notwithstanding section 15 of the State Department Basic Authorization Act, section 313 of the Foreign Relations Authorization Act, section 10 of Public Law 91–672, and section 504(a)(l) of the National Security Act of 1947.

Sec. 4104. The conference agreement includes a general provision, similar to language proposed by the Senate, providing $25,000,000 to combat the spread of the avian influenza virus. The conferees are gravely concerned by the current outbreak in Southeast Asia, and therefore initiate a coordinated inter-agency program to prevent and control the spread of this virus. The conferees understand that the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services have the necessary expertise to implement the bulk of these activities and have accordingly transferred $15,000,000 to CDC for use in combating the spread of the avian influenza virus in Southeast Asia. The conferees appreciate the valuable role the World Health Organization (WHO) played in combating the SARS outbreak and expect that the United States agencies will work closely with both the WHO and the Food and Agricultural Organization to address the human and animal components of this outbreak of the avian influenza virus. The conferees recognize that, given the variety of specialties necessary to mount such a program, an inter-agency taskforce and plan will be developed and implemented. The Committees on Appropriations expect to be consulted by this taskforce not later than 30 days following enactment of this Act on the status and implementation of such a plan.

The conference agreement does not include House section 5003 or Senate sections 6052 and 6054.

The conference agreement does not include Senate language regarding the protection of the Galapagos. However, the conferees endorse the findings of that amendment and strongly urge the Government of Ecuador to (1) refrain from actions that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve; (2) select the directorship of the Galapagos National Park Service through a transparent process based on merit; (3) enforce the Galapagos Special Law in its entirety; and (4) prohibit long-line fishing.

The conference agreement does not include sense of the Senate language regarding Nepal. However, the conferees deplore the February 1, 2005 action by the King of Nepal dissolving the multiparty government, and call for the immediate release of all political detainees, the restoration of constitutional liberties, and good faith negotiations with Nepal's political party leaders to restore democracy.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

The conference agreement recommends $225,650,000, as proposed by the House and Senate to reimburse the Department of Defense accounts for Indian Ocean Tsunami Relief costs, as follows:

[In thousands of dollars]

Account	Request	House	Senate	Conference
Operation and Maintenance				
O&M, Navy	124,100	124,100	124,100	124,100
O&M, Marine Corps	2,800	2,800	2,800	2,800
O&M, Air Force	30,000	30,000	30,000	30,000
O&M, Defense-Wide	29,150	29,150	29,150	29,150
Overseas Humanitarian, Disaster, and Civic Aid	36,000	36,000	36,000	36,000
Total O&M Defense	222,050	222,050	222,050	222,050
Other Department of Defense Programs				
Defense Health Program	3,600	3,600	3,600	3,600
Total Department of Defense	225,650	225,650	225,650	225,650

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

The conference agreement provides $350,000 to fund the incremental cost of the U.S. Coast Guard's air operations in support of tsunami relief efforts in Southeast Asia, as proposed by both the House and the Senate. The entire amount is designated as an emergency requirement.

CHAPTER 4

DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

The conference agreement provides $8,100,000 for surveys, investigations, and research, as proposed by both the House and the Senate, to provide increased earthquake and tsunami detection through expansion of the Global Seismographic Network and the National Earthquake Information Center.

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

The conference agreement includes $7,070,000 for "Operations, Research, and Facilities," as proposed by the Senate, instead of $4,830,000 as proposed by the House. The conference agreement includes, by reference, language in the House report regarding the submission of an implementation plan and timetable and regarding Native American communities living near the Cascadia subduction zone, and language in the Senate report regarding inundation mapping.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

The conference agreement includes $10,170,000 under this account as proposed by the Senate, instead of $9,670,000 as proposed by the House, to support the improvement of seismic measurements and the acquisition and deployment of 32 additional tsunami-reporting buoys. The conferees encourage NOAA to develop buoys with capabilities beyond the single purpose of tsunami reporting. The conference agreement includes, by reference, language in the Senate report regarding the submission of a spending plan.

TITLE V—OTHER EMERGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

Asian Soybean Rust.—The conferees are aware that Asian Soybean Rust has been identified in the United States and that great harm to soybean production and rural economies may result. It is important that the Department of Agriculture initiate an immediate and strong response to meet this threat. The conferees urge the Secretary to utilize funding from available sources, including contingency and CCC resources, to concentrate research, outreach, and regulatory activities in those areas where Asian Soybean Rust has been identified and where the greatest risk for disease expansion is evident.

Common Computing Environment.—The conferees direct that of the funds made available to the Administrator of the Farm Service Agency, not less than $33,000,000 shall be available for Geographic Information Systems, of which not less than $23,500,000 shall be available to the National Agricultural Imagery Program.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE RESEARCH AND EDUCATION ACTIVITIES

The conference agreement does not include $3,000,000 for a grant to the College of Tropical Agriculture and Human Resources in Hawaii, as proposed by the Senate.

NATURAL RESOURCES CONSERVATION SERVICE EMERGENCY WATERSHED PROTECTION PROGRAM

The conference agreement provides $104,500,000 for eligible work identified in the Emergency Watershed Protection Program, Recovery Projects Unfunded list, including full funding for eligible needs in the state of Utah. The Senate proposed $103,000,000 for this account and the House proposed no funding. The conference agreement directs the Secretary of Agriculture to count certain local financial and technical resources contributed toward flood recovery in Utah toward local matching requirements, as proposed by the Senate.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 5101. The conference agreement includes a provision to transfer unobligated amounts available under the Department of Agriculture, Rural Housing Insurance Fund Program Account to the Rental Assistance Account, for projects in North Carolina, as proposed by the Senate.

Sec. 5102. The conference agreement includes language regarding the eligibility of the Village of New Miami, Ohio, for grants funded through the Rural Housing Assistance Grants account within the Department of Agriculture, as proposed by the Senate.

Senate Sec. 5103. The conference agreement does not include funding for financial and technical assistance related to the Manoa Watershed in Hawaii, as proposed by the Senate.

Sec. 5103. The conference agreement includes language allowing for a transfer of Department of Agriculture funds from the Lost River watershed project in West Virginia to the Upper Tygart watershed project in West Virginia, as proposed by the Senate.

Sec. 5104. The conference agreement includes language providing the Secretary of Agriculture flexibility in administering an existing grant to Alaska dairy farmers, as proposed by the Senate.

CHAPTER 2

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

The conference agreement provides $3,000,000 in emergency appropriations for salaries and expenses as proposed by the Senate instead of no funding as proposed by the House.

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

The conference agreement provides $24,390,000 in emergency appropriations for capital improvement and maintenance instead of $31,980,000 as proposed by the Senate and no funding as proposed by the House. The managers have included the $2,410,000, recommended by the Senate in the national forest system account, in this account to provide management flexibility to use these emergency funds for the most urgent priorities. Funding is provided for the repair of national forest facilities and lands damaged by severe storms in southern California, including the Angeles, Cleveland, Los Padres and San Bernardino National Forests.

CHAPTER 3

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING RESCISSIONS OF FUNDS)

The conference agreement includes modified language proposed by the Senate providing $10,000,000 for a grant to Pocono Township, Tannersville, Pennsylvania to assist in the expansion of the only existing injectable influenza vaccine production facility in the United States, which is located in Swiftwater, Pennsylvania. The conferees are agreed that this emergency appropriation is in the nation's interest because of the national need to increase the supply of domestically produced influenza vaccine and to decrease the likelihood of another influenza vaccine shortage. The agreement includes five rescissions of inactive Department of Health and

Human Services (HHS) funds to offset the spending. The funding and rescissions were included in the Senate bill. The House bill included neither the appropriation nor the rescissions.

The conference agreement also includes a new paragraph providing an additional $58,000,000 to the Public Health and Social Services Emergency Fund to be transferred to the Centers for Disease Control and Prevention for the purchase of influenza countermeasures for the Strategic National Stockpile. The conferees understand that influenza countermeasures include, but are not limited to, antiviral medications and vaccines. The conferees believe these funds are urgently needed to enhance our nation's preparedness to respond to a severe influenza outbreak, particularly in light of the current reports of Avian influenza activity in Southeast Asia.

This additional funding is offset by a rescission of $58,000,000 of the cancer hospital loan fund created by section 1016 of the Medicare Modernization Act of 2003.

RELATED AGENCY

INSTITUTE FOR MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION

The conference agreement does not include $10,000,000 in emergency funding for the University of Hawaii Library as proposed by the Senate. The House bill did not include a similar provision.

CHAPTER 4

THE JUDICIARY

COURTS OF APPEALS DISTRICT COURTS AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement does not include additional funds for the Judiciary, as proposed by the Senate. The House did not include a similar provision.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING FOR PERSONS WITH DISABILITIES

(INCLUDING RESCISSION OF FUNDS)

The conference agreement includes the rescission and reappropriation of fiscal year 2005 funds in this account in order to provide two-year availability, as proposed by the Senate. The House did not include a similar provision.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $5,000,000 in additional funds for the Office of Federal Housing Enterprise Oversight (OFHEO), as proposed by the Senate, with modifications. The House did not include a similar provision. These additional funds have been made available to ensure OFHEO has enough resources to complete all necessary audits and to pay for any litigation costs, as necessary. However, by undertaking an assessment without first seeking an appropriation and prior to receiving an appropriation, OFHEO has placed the conferees in an untenable situation of appropriating funds after the necessary offstting receipts have been collected. Hence, without significant amendments the conferees would have been scored for any appropriation subsequent to the assessment. To have made the assessment without informing the Committees on Appropriations demonstrates an ignorance of budgetary rules, an arrogance in program implementation and a serious attempt by OFHEO to ignore statutory intent.

In providing these funds, the conferees require that prior to any use of these appropriations, OFHEO must provide the Committees on Appropriations with a detailed operating plan and henceforth must provide quarterly reports on the use of all funds appropriated to OFHEO.

GENERAL PROVISION, THIS CHAPTER

The conference agreement does not include a provision providing $10,000,000 in new funds to cover the costs of repairs at the University of Hawaii, as proposed by the Senate.

TITLE VI—GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

Sec. 6001. The conference agreement includes a provision concerning the availability of funds, as proposed by both the House and the Senate.

Sec. 6002. The conference agreement includes a provision clarifying the application of designations within this Act pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Sec. 6003. The conference agreement includes language regarding Department of Agriculture business and industry loans, as proposed by the Senate. The language directs that such assistance may not be denied due to the failure of the Secretary of Labor to certify the assistance within the timeframe specified in the authorization.

Sec. 6004. The conference agreement includes a provision related to the McClellan-Kerr Arkansas River navigation project that corrects a citation to a public law under the heading "Operation and Maintenance" in title I of division C of Public Law 108–447.

Sec. 6005. The conference agreement includes a technical correction to a provision in title I of division C of Public Law 108–447

relating to credits and reimbursements and per state limitations on environmental infrastructure programs.

Sec. 6006. The conference agreement includes a provision increasing the project cost estimate for the DeSoto County, Mississippi, project described in Section 219(f)(30) of (106 Stat. 4835; 106 Stat. 3737; 113 Stat. 334), and allowing the Secretary to reimburse the non-Federal sponsor for incurred costs.

Sec. 6007. The conference agreement includes a provision to increase the project cost estimate for the Fort Peck Fish Hatchery project in Montana, as described in Section 325(f)(1)(A) of Public Law 106–541, to allow for the expenditure of funds appropriated by Congress for fiscal year 2005.

Sec. 6008. The conference agreement includes a provision relating to the authorized project cost and the non-federal reimbursement regarding the SR–1 Bridge in Delaware.

Sec. 6009. The conference agreement includes a provision relating to valuation of fabrication ports when analyzing economic benefits for navigation projects.

Sec. 6010. The conference agreement includes a provision relating to Environmental Infrastructure projects.

Sec. 6011. The conference agreement includes a provision relating to the authorization of the Indiana Harbor and Canal, Confined Disposal Facility, Indiana. The operation and maintenance of the completed project shall remain a local responsibility, consistent with the existing Project Cooperation Agreement.

Sec. 6012. The conference agreement includes a provision relating to the mitigation credit for the Big Cypress Seminole Reservation Water Conservation Plan Project in Florida.

Sec. 6013. The conference agreement includes a provision making a technical correction relating to the San Gabriel Basin Restoration Fund in Title II of division C of Public Law 108–447 relating to the deposition of a previous appropriation in the San Gabriel Basin Restoration Fund and the authorized uses of the San Gabriel Basin Restoration Fund.

Sec. 6014. The conference agreement includes a provision authorizing the Bureau of Reclamation to expend funds in meeting the terms of the Biological Opinion 2003 for the Rio Grande River.

Sec. 6015. The conference agreement includes a provision that extends Section 8 of Public Law 104–298 (The Water Desalination Act of 1996) to allow for the expenditure of funds appropriated by Congress.

Sec. 6016. The conference agreement includes a provision providing $2,000,000 for the National Center for Manufacturing Sciences in Michigan, and $825,000 for a research and development project in California to advance the state of metal hydride hydrogen storage using a technologically feasible and commercially viable approach.

Sec. 6017. The conference agreement includes a provision providing, within available funds for the Office of Science, $2,000,000 for continuation of project DE–FG0204ER63842–04090945, the Southeast Regional Cooling, Heating, and Power and Biofuel Application Center in Mississippi, $3,000,000 for the University of Texas Southwestern Medical Center, Dallas Metroplex Comprehensive Imaging Center, $500,000 for desalination technology at University of Nevada-Reno, $500,000 for the Oral History of the Negotiated

Settlement project at UNR, $4,000,000 for the Fire Sciences Academy in Elko, Nevada, and $2,000,000 for the upgrade of chemistry laboratories at Drew University, New Jersey.

Sec. 6018. The conference agreement includes a provision providing $1,000,000, within available funds for Fossil Energy Research and Development, for remediation of natural gas leaks in the Borough of Versailles, Pennsylvania.

Sec. 6019. The conference agreement includes a provision making a technical correction to allow for the transfer of $10,000,000 to carry out the purpose of section 3147 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375, regarding the Pajarito Plateau Homesteader claims, and a provision relating to cybersecurity at DOE laboratories.

Sec. 6020. The conference agreement includes a provision allowing the transfer of funds from the Defense Site Acceleration Completion account to ensure that projects within Defense Environmental Services are funded without unduly impacting mission activities and statutory requirements, and provides $2,000,000, from within available funds, for the Tularosa Basin Desalination facility.

Sec. 6021. The conference agreement includes a provision allowing the transfer of up to $4,000,000 from Defense Site Acceleration Completion to Weapons Activities to carry out environmental cleanup of lands transferred from Los Alamos National Laboratory.

Sec. 6022. The conference agreement includes a provision to clarify Department of Energy small business contracting requirements.

Sec. 6023. The conference agreement includes a provision making technical corrections regarding nuclear waste disposal in Title III of division C of Public Law 108–447.

Sec. 6024. The conference agreement modifies a Senate provision related to the "Department of Homeland Security Working Capital Fund". The conferees are displeased with the Department's use of the Working Capital Fund (WCF). The Department of Homeland Security has not complied with the requirements of the fiscal year 2005 Appropriations Act or the statement of managers accompanying the conference report with respect to the WCF. The Department has used the WCF for projects and activities about which Congress has not been informed, or for which Congress has not provided appropriations. While the WCF can be a useful management tool, it will only exist if the rules detailed in the annual appropriations acts and reports are strictly adhered to. The Department must comply with statutory reprogramming notification requirements, regardless of the source of funds, and notify the House and Senate Appropriations Committees prior to initiating a new project, whether it is run through the WCF, reimbursable agreements, the Economy Act, or within any single component of the Department.

The conferees understand that the Operation Integration Staff (I-Staff) has been removed from the WCF, but that funds have been obligated for this purpose in fiscal year 2005. In the past, the Committees objected to the use of the WCF for the I-Staff. The conferees direct a full and complete reporting, within 15 days of enactment of this Act, of all funds obligated in fiscal years 2004 and 2005 for the I-Staff, including funding sources, the number and

source of all detailees, and a description and explanation of all travel and contracts. The conferees also understand that the Homeland Secure Data Network (HSDN) has been funded through the WCF. This program is further addressed in this statement of managers. No further obligations for the I-Staff and HSDN shall occur unless an official reprogramming notification is provided to and approved by the House and Senate Appropriations Committees.

Sec. 6025. The conference agreement includes a new general provision requiring annual appropriations justifications for the WCF, and requiring that justifications for each component of the Department carry explicit information about WCF charges, reimbursable agreements, and uses of the Economy Act.

Sec. 6026. The conference agreement includes and modifies a provision, as proposed by the Senate, related to the Chief Information Officer (CIO). The conferees withhold from obligation $5,000,000 of the CIO's salaries and expenses until the CIO submits an expenditure plan for information technology projects funded by the CIO or funded through the use of reimbursable agreements.

The conferees remind the Department of Homeland Security that it is failing to abide by the statutory requirements for the reprogramming and transfer of funds, and the initiation of new programs, projects or activities. Pursuant to law, advanced notification to the House and Senate Appropriations Committees is required prior to the CIO initiating any new information technology project. The conferees direct the CIO to submit a list of every project underway or planned for fiscal year 2005; a complete list of all legacy systems in operation as of March 1, 2003; the operating status of those systems; and plans for continued operation or termination of each system. The conferees direct the CIO to submit an expenditure plan for all on-going or planned projects, to include but not be limited to: total project costs, key milestones, obligations to date, contracts entered into, and a list of all funding sources specifying the exact dollar amount.

In addition, the conferees direct the Department to submit a report detailing all reimbursable agreements between the CIO's office and other departmental organizations in effect or planned for fiscal year 2005, as well as all of those anticipated for fiscal year 2006.

The CIO is directed to submit to the House and Senate Appropriations Committees an analysis demonstrating that the Homeland Secure Data Network (HSDN) is more cost effective than other alternatives that were considered prior to the initiation of the project. The report on the HSDN should accompany the expenditure plan required by this Act. The conferees have no bias towards development of the HSDN, but are extremely concerned by the lack of any presentation on the need for this project in the fiscal year 2004 or 2005 appropriations justifications. The conferees note, for example, that the contract for the development and implementation of the HSDN was awarded on April 12, 2004, yet the fiscal year 2004 project plans for the CIO's office were submitted April 20, 2004, with no mention of the HSDN project.

Sec. 6027. The conference agreement includes a provision rescinding funds appropriated by Public Law 108–334.

Sec. 6028. The conference agreement includes a provision rescinding unobligated balances in the "Department of Homeland Security Working Capital Fund."

Sec. 6029. The conference agreement includes a legislative provision, as proposed by the Senate, that requires all Department of Homeland Security funding contained in this supplemental Act to be subject to the reprogramming and transfer guidelines outlined in Public Law 108–334.

Sec. 6030. The conference agreement includes a technical correction to the fiscal year 2005 appropriations Act, as proposed by the House and the Senate, dealing with a land transfer by the Bureau of Land Management.

Sec. 6031. The conference agreement includes a transfer of funds in the Forest Service from the capital improvement and maintenance account to the State and private forestry account, as proposed by the Senate. This is a technical correction to the fiscal year 2005 appropriations Act.

Sec. 6032. The conference agreement includes a provision, as proposed by the Senate, permitting the National Park Service to use appropriated funds for the construction, operation, and maintenance of an expansion to the West Yellowstone Visitor Information Center at Yellowstone National Park in Montana.

Sec. 6033. The conference agreement includes a limitation on the use of funds, as proposed by the Senate, specifying that 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.

Sec. 6034. The conference agreement modifies a provision, proposed by the Senate, dealing with oil and gas mineral activities at Gulf Islands National Seashore in Mississippi. The modification clarifies the specific lands upon which certain activities are authorized and makes other technical changes to the language.

Sec. 6035. The conference agreement includes a provision, proposed by the Senate, extending the authorization for section 402(b) of the Surface Mining Control and Reclamation Act of 1977 through September 30, 2005.

Sec. 6036. The conference agreement includes the Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005 as proposed by the Senate.

Sec. 6037, Sec. 6038, and Sec. 6039. The conference agreement includes several technical corrections to State and Tribal Assistance Grants projects in the Environmental Protection Agency.

TRANSFER AUTHORITY

Section 6040. The conference agreement modifies a general provision as proposed by the Senate (section 6035) pertaining to the repeal of transfer authority for the Departments of Labor and Health and Human Services. The House bill contained no similar provision. The conference agreement repeals the Department of Labor transfer authority provided in section 102 of Public Law 108–447, and specifies that the general transfer authority for the Department of Health and Human Services 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 in division F of Public Law 108–447.

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

Sec. 6041. The conference agreement includes modified language, similar to that proposed by the Senate (section 6036) making technical corrections to projects provided in Public Law 108–447 in the Fund for the Improvement of Education for fiscal year 2005. The House bill included similar language in section 5009.

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

Sec. 6042. The conference agreement includes modified language, similar to that proposed by the Senate (section 6037), making technical corrections to projects provided in Public Law 108–447 in the Fund for the Improvement of Postsecondary Education for fiscal year 2005. The House bill included similar language in section 5010.

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

Sec. 6043. The conference agreement includes a provision proposed by the Senate (section 6038) making a technical correction to a project provided in Public Law 108–199 in the Fund for the Improvement of Education for fiscal year 2004. The House bill did not include similar language.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR GRANT REVIEWS

Sec. 6044. The conference agreement includes a provision as proposed by the Senate (section 6039) making a technical correction to the appropriation for the Corporation for National and Community Service. The House bill contained the same provision (section 5011).

MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM

Sec. 6045. The conference agreement includes a provision as proposed by the Senate (section 6049) that clarifies the eligibility of institutions that may apply for the cancer hospital loan fund that was created by the Medicare Modernization Act of 2003, and exempts the Secretary's decisions on the program from judicial and administrative review. The House bill contained no similar provision.

APPLICATION PROCESSING AND ENFORCEMENT FEES

Sec. 6046. The conference agreement includes a new provision amending the Immigration and Nationality Act to restore the authority of the Secretary of Labor to use a portion of the proceeds from the application fee for the H–IB temporary visa program to process applications for permanent labor certifications.

TECHNICAL CORRECTION—HIGHER EDUCATION

(INCLUDING RESCISSION OF FUNDS)

Sec. 6047. The conference agreement includes a new provision making a technical change to a project provided in Public Law 108–447 in the Fund for the Improvement of Postsecondary Education for fiscal year 2005. Neither the House nor Senate bills included this provision.

DETROIT LABOR BUILDING

The conference agreement deletes without prejudice a provision proposed by the Senate to transfer the full title on the Detroit Labor Building to the State of Michigan. The conferees understand this provision is not necessary to complete the sale of the building. The House bill contained no similar provision.

Sec. 6048. The Conference agreement includes language which authorizes using royalty fees and payments for the Library of Congress, Copyright Office, Copyright Royalty Judges program.

Sec. 6049 makes a technical correction to Public Law 107–68, regarding the Capitol Visitor Center.

Sec. 6050 makes a technical correction to Public Law 108–7, regarding Senate accounts.

Sec. 6051. The conference agreement includes a provision making technical corrections regarding NOAA appropriations.

Sec. 6052. The conference agreement includes a provision making technical corrections regarding NOAA appropriations.

Sec. 6053. The conference agreement includes a provision making technical corrections regarding NOAA appropriations.

Sec. 6054. The conference agreement includes a provision, as proposed by the House, making a technical correction for the purpose of a grant.

Sec. 6055. The conference agreement includes a provision, as proposed by the House, making a technical correction to the name of a grant recipient.

Sec. 6056. The conference agreement includes a provision, as proposed by the House, making two technical corrections to a grant recipient.

Sec. 6057. The conference agreement includes a new provision making two technical corrections to the name of a grant recipient.

Sec. 6058. The conference agreement includes a provision, modified from the Senate bill, providing a technical correction to the bankruptcy fee collection authorities.

Sec. 6059. The conference agreement includes a provision regarding a Department of Commerce activity.

Sec. 6060. The conference agreement includes a provision making a technical correction regarding the 9/11 Heroes Medal of Valor.

Sec. 6061. The conference agreement includes a provision making technical corrections to grants under the heading "Capital Investment Grants" in P.L. 108–447, as proposed by the Senate.

Sec. 6062. The conference agreement includes a new provision that modifies a project in Massachusetts contained in P.L. 105–178.

Sec. 6063. The conference agreement includes a technical correction to P. L. 108–447 with regard to the Oklahoma City urbanized area, as proposed by the House.

Sec. 6064. The conference agreement includes a new provision that authorizes the Secretary of Transportation to access overflight fees beyond the authorized level of $50,000,000 for the purpose of maintaining existing services under the essential air service program. Should the total amount of overflight fees collected not be sufficient to meet all the funding needs of the program in this fiscal year, then the Secretary is authorized to transfer funds from the available balances of any program appropriated to, or directly administered by, the Office of the Secretary to the essential air service program. The Conferees expect the Office of the Secretary to consult with the Committees on Appropriations of the Senate and of the House of Representatives if such a transfer is necessary and identify the source of the funds of said transfer subject to normal reprogramming guidelines.

Sec. 6065. The conference agreement includes a new provision that reiterates the application of current law regarding U.S. cargo preference requirements to assistance provided in this Act.

Sec. 6066. The conference agreement includes a provision making technical corrections to certain judiciary fees, as proposed by both the House and the Senate.

Sec. 6067. The conference agreement includes a provision that corrects the amount provided in P.L. 108–447 for the Las Cruces United States Courthouse to read $60,600,000 instead of $60,000,000, as proposed by the Senate.

Sec. 6068. The conference agreement includes a provision that corrects a citation in P.L. 108–447 to read "572(a)(2)(A)(ii)", as proposed by the Senate.

Sec. 6069. The conference agreement includes a provision making technical corrections to three grants under the heading "Community Development Fund" in P.L. 108–447.

Sec. 6070. The conference agreement includes a provision making technical corrections to two grants under the heading "Community Development Fund" in P.L. 108–7.

Sec. 6071. The conference agreement includes a provision making technical corrections to eight grants under the heading "Community Development Fund" in P.L. 108–199.

Sec. 6072. The conference agreement includes a provision making technical corrections to seven grants under the heading "Community Development Fund" in P.L. 108–447.

Sec. 6073. The conference agreement includes a technical correction to Section 222 of Title II, Division I of P.L. 108–447, as proposed by the Senate.

Sec. 6074. The conference agreement includes a new provision that raises the ceiling on the number of Home Equity Conversion Mortgages that FHA may insure from 150,000 to 250,000.

Sec. 6075. The conference agreement includes a new provision that permits HUD to use 2005 appropriations to run Public Housing Authorities that are placed under Federal receivership in 2005.

Sec. 6076. The conference agreement includes a provision that prohibits executive branch agencies from creating prepackaged news stories that are broadcast or distributed in the United States unless the story includes a clear notification within the text or

audio of that news story that the prepackaged news story was prepared or funded by that executive branch agency. This provision confirms the opinion of the Government Accountability Office dated February 17, 2005 (B–304272).

Sec. 6077. The conference agreement includes a provision amending the use of District of Columbia local funds, as proposed by both the House and the Senate.

Sec 6078. The conference agreement includes a provision proposed by the House (Sec. 5012) to amend section 114 of title I of division I of Public Law 108–447 to restrict the use of funds for medical preparedness centers by the Department of Veterans Affairs. The Senate bill contained no similar provision.

Sec. 6079. The conference agreement includes a provision proposed by the House (Sec. 5013) to amend section 117 of title I of division I of Public Law 108–447 to allow for the direct deposit of funds into the two construction accounts of the Department of Veterans Affairs. The Senate bill contained no similar provision.

Sec. 6080. The conference agreement includes a modified provision proposed by the House (Sec. 5014) to make certain funds available without fiscal year limitation. The Senate bill contained no similar provision.

Sec. 6081. The conference agreement includes a provision proposed by the Senate (Sec. 1128) to amend Public Law 108–422, adding to the definition in the law concerning "medical center." The House bill contained no similar provision. The conferees are cognizant of the concerns of the Department of Veterans Affairs. As such, the conferees direct the Department to report to the Committees on Appropriations of the House and Senate any significant cost and schedule implications at the affected locations. If such implications are significant, the Committees may address these issues in the fiscal year 2006 regular appropriations bill.

The conferees note that the Government Accountability Office is required by statute to report to Congress on the expenditures of independent counsels' offices every six months. These reports are submitted to the House and Senate Appropriations Committees, the House and Senate Judiciary Committees and the House Government Reform Committee and the Senate Homeland Security and Governmental Affairs Committee. The conferees expect this reporting to continue for all ongoing independent counsel activities.

The conference agreement does not include language proposed as Senate Section 6047 expressing the Sense of the Senate regarding timely enactment of appropriations for the United States Armed Forces. The House did not include similar language.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2005 recommended by the Committee of Conference, comparisons to the 2005 budget estimates, and the House and Senate bills for 2005 follow:

[In thousands of dollars]

Budget estimates of new (obligational) authority, fiscal year 2005	82,042,628
House bill, fiscal year 2005	81,366,878
Senate bill, fiscal year 2005	81,219,945
Conference agreement, fiscal year 2005	82,041,478

Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2005	−1,150
House bill, fiscal year 2005	+674,600
Senate bill, fiscal year 2005	+821,533

DIVISION B—REAL ID ACT OF 2005

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

Section 101 of the conference agreement includes language modified from language proposed in section 101 of division B of the House bill. The Senate did not include similar language.

Asylum Reform: As the staff of the 9/11 Commission determined, terrorist aliens have exploited our asylum laws to enter and remain in the United States.

Aliens who pose a danger to the national security of the United States have been barred from receiving asylum and withholding of removal by regulation since 1990. In 1996, Congress amended the Immigration and Nationality Act (INA) to explicitly bar aliens who are inadmissible or deportable under terrorism provisions from receiving asylum and withholding. Despite these bars to dangerous aliens receiving asylum, however, the 9/11 Terrorist Travel monograph notes that "[a] number of terrorists [have] . . . abused the asylum system." Mono. at 106.

For example, Ramzi Yousef and Ahmad Ajaj, plotters of the first World Trade Center bombing, "concocted bogus political asylum stories when they arrived" to remain in the United States in 1992. Id. at 50. Similarly, the Blind Sheikh, Sheikh Abdul Rahman, "avoided being removed from the United States by filing an application for asylum and withholding of deportation to Egypt in . . . 1992." Id. at 55.

In addition to these aliens whose asylum abuse was specifically described in the Terrorist Travel Monograph, other alien terrorists have abused our generous asylum laws. In January 1993, 11 months after he applied for asylum, Mir Aimal Kansi, also known as Mir Aimal Kasi, killed two CIA employees in front of CIA headquarters in Langley, Virginia. Camarota, Steven, "The Open Door: How Militant Islamic Terrorists Entered and Remained in the United States, 1993–2001," Center for Immigration Studies, May 2002, at 7, www.cis.org/articles/2002/Paper21/terrorism2.html>; see also Border Security and Enforcement: The 9/11 Commission Staff Report on Training for Border Inspectors, Document Integrity, and Defects in the U.S. Visa Program Before the Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology, and Homeland Security of the Senate Judiciary Committee, 108th Cong., 1st Sess. (2005) (statement of Janice Kephart). Kansi had been a visa overstay for almost a year before filing that application. "The Open Door", at 7. Hesham Hedayet killed two in a shooting spree at LAX on July 4, 2002. Immigration and Naturalization Service's (INS's) Interactions with Hesham Mohamed Ali Hedayet Before the Subcommittee on Immigration, Border Security and Claims of the House Judiciary Committee, 107th Cong., 2d Sess. at 7 (statement of William Yates, Deputy Executive Associate Commissioner, INS) (2002). He entered

the United States in 1992, and extended his stay by filing an asylum application one month before his stay ended. Id. His application was administratively denied, but he adjusted his status 17 months later after his wife won the visa lottery. Id. at 7–8.

Nor did the reforms in the mid–1990s end such abuse. In February 1997, for example, Gazi Ibrahim Abu Mezer was released after entering the United States illegally and after stating that he would be applying for asylum. Special Report of the United States Department of Justice, Office of the Inspector General, "Bombs in Brooklyn: How the Two Illegal Aliens Arrested for Plotting to Bomb the New York Subway Entered and Remained in the United States" (March 1998). In April 1997, he filed an asylum application in which he claimed that "the Israeli government continuously persecuted him." Id. On July 31, 1997, Mezer was arrested in a Brooklyn apartment for allegedly planning to bomb the New York City subway system. Id.

In January 1999, Somali national Nuradin Abdi was granted asylum. Government's Motion to Detain Defendant and Memorandum in Support at 4, *United States* v. *Nuradin M. Abdi* (S.D. Ohio 2004) (No. 2:04cr88). Abdi purportedly used that status to apply for a travel document to facilitate an act of international terrorism. See Indictment, *United States* v. *Nuradin M. Abdi* (S.D. Ohio 2004) (No. 2:04cr88). After he returned to the United States, he was charged with conspiring to provide material support to al Qaeda, and the Justice Department claims "that Abdi, along with admitted al Qaeda operative Iyman Ferris and other co-conspirators, initiated a plot to blow up a Columbus [Ohio] area shopping mall." Press Release of the United States Department of Justice, "Ohio Man Indicted for Providing Material Support to Al Qaeda, Falsely Obtaining and Using Travel Documents (June 14, 2004), at 2. The government has revoked his asylum because "with the exception of some minor biographical data, every aspect of [Abdi's] asylum application . . . was false." Government's Motion to Detain Defendant and Memorandum in Support at 4, *United States* v. *Nuradin M. Abdi* (S.D. Ohio 2004) (No. 2:04cr88).

Section 101 of Division B responds to terrorist abuse of our asylum laws by amending the INA to limit fraud.

As there are no explicit evidentiary standards for granting asylum in the INA, standards for determining the credibility of an asylum applicant and the necessity for evidence corroborating an applicant's testimony have evolved through the case law of the Board of Immigration Appeals (BIA) and federal courts. Because these standards are not consistent across federal appellate courts, different results have been reached in similar cases, depending on the court that hears the case.

With regard to sufficiency of the evidence, for example, the BIA and the federal courts agree that credible testimony alone may suffice to sustain the applicant's burden of proof in some cases, but disagree on when credible testimony alone can meet the burden and when corroboration is needed. The BIA has held that: "Because the burden of proof is on the alien, an applicant should provide supporting evidence, both of general country conditions and of the specific facts sought to be relied on by the applicant, where such evidence is available. If such evidence is unavailable, the applicant must explain its unavailability, and the Immigration Judge must

ensure that the applicant's explanation is included in the record." *Matter of S–M–J–*, 21 I&N Dec. 722 (BIA 1997).

Section 101 resolves conflicts between administrative and judicial tribunals with respect to standards to be followed in assessing asylum claims. In addition, it makes similar amendments to the standards governing other forms of relief from removal. Finally, this section corrects references within the asylum provisions to reflect changes in the INA generally.

Authority: Subsection 101(a) of Division B would amend paragraph 208(b)(1) of the INA to clarify that the Secretary of Homeland Security and the Attorney General both have authority to grant asylum. Because both the Secretary of Homeland Security and the Attorney General may now exercise authority over asylum depending on the context in which asylum issues arise, paragraphs 101(a)(1) and (2) of Division B would accordingly amend paragraph 208(b)(1) of the INA to insert references to both the Attorney General and the Secretary of Homeland Security.

Paragraph 101(g)(1) of Division B would provide that the references to the authority of the Secretary of Homeland Security would take effect as if enacted on March 1, 2003, which was the official date of transfer of immigration enforcement functions from the INS to the Department of Homeland Security under the Reorganization Plan.

Burden of Proof and Central Reason: Paragraph 101(a)(3) codifies case law standards for granting asylum, both to resolve conflicts between fora and to codify precedential rules.

First, that paragraph would create a new clause 208(b)(1)(B)(i) in the INA. This clause codifies existing regulations and case law standards stating that the burden of proof is on the asylum applicant to establish eligibility as a refugee. This clause also will clarify the standard that an asylum applicant must meet to establish the motivation for persecution claimed.

The INA requires all aliens seeking asylum to establish that they suffered or fear persecution "on account of" one of five factors: race, religion, nationality, membership in a particular social group, or political opinion. As the Supreme Court has held: "since the statute makes motive critical, [an asylum applicant] must provide some evidence of it, direct or circumstantial." *INS* v. *Elias-Zacarias*, 502 U.S. 478, 483 (1992).

In explaining the Supreme Court's decision, the Ninth Circuit stated: "[I]n those cases in which a persecuted activity could stem from many causes, some protected by the statute and others unprotected, the victim must tie the persecution to a protected cause. To do this, the victim needs to show the persecutor had a protected basis (such as the victim's political opinion) in mind in undertaking the persecution." *Canas-Segovia* v. *INS*, 970 F.2d 599, 601 (9th Cir. 1992). The BIA has explained the alien's burden as follows: an asylum applicant "bear[s] the burden of establishing facts on which a reasonable person would fear that the danger arises on account of" one of the five protected factors. *Matter of Fuentes*, 19 I & N Dec. 658, 662 (BIA 1988).

The main issue in assessing motivation in an asylum context occurs in so-called "mixed motive" cases, where there is more than one possible motive for harm, one protected, others not. In requiring an asylum applicant to establish that at least one central rea-

son for persecution was or will be one of the five factors for asylum relief, this subsection calls for an evaluation of whether the protected characteristic is central to the persecutor's motivation to act.

Similar language has been advanced as a uniform standard for assessing motivation previously. In the proposed rule dealing with Asylum and Withholding Definitions (the so-called "R-A-" rule dealing with domestic violence cases), former Attorney General Janet Reno proposed to amend the asylum regulations to implement an almost identical proposal, explained as follows:

> This rule proposes new language . . . that would require an applicant to show that the protected characteristic is central to the persecutor's motivation to act. Consistent with current law, this language allows for the possibility that a persecutor may have mixed motives. It does not require that the persecutor be motivated solely by the victim's possession of a protected characteristic. It does, however, require that the victim's protected characteristic be central to the persecutor's decision to act against the victim. For example, under this definition it clearly would not be sufficient if the protected characteristic was incidental or tangential to the persecutor's motivation.

65 Fed. Reg. 76588, 76592 (Dec. 7, 2000).

Because this standard has not yet been adopted, there is currently no uniform standard for assessing motivation. This statutory standard is, however, in keeping with decisions of reviewing courts. See *Girma* v. *INS*, 283 F.3d 664, 668 (5th Cir. 2002) (affirming BIA's finding of no persecution on account of qualifying ground, because in mixed motive case "applicant . . . must present evidence sufficient for one to reasonably believe that the harm suffered was motivated in meaningful part by a protected ground"); *Ambartsoumian* v. *Ashcroft*, 388 F.3d 95, 91 (3d Cir. 2004) (applicant failed to show persecution on account of ethnicity, where police harassment was "mainly because he had failed to obtain proper legal documents and permission, and not because of his ethnicity"); *Useinovic* v. *INS*, 313 F.3d 1025, 1033 (7th Cir. 2002) (applicant failed to show persecution on account of political opinion based on robbery, where no showing that robbery "was primarily aimed at him personally and not at [stealing] valuables."). Ninth Circuit decisions in *Borja* v. *INS*, 175 F.3d 732 (9th Cir. 1999) and *Briones* v. *INS*, 175 F.3d 727 (9th Cir. 1999) and other cases have substantially undermined a proper analysis of mixed motive cases, however.

Adopting this standard will address another anomaly in the law that has been created by the Ninth Circuit, one that improperly favors asylum applicants who claim that they have been accused of engaging in terrorist, militant, or guerrilla activity. In *Singh* v. *Ilchert*, 63 F.3d 1501, 1509 (9th Cir. 1995), the Ninth Circuit equated the "investigation of and reaction against those thought, rightly or wrongly, to be militants seeking the violent overthrow of the government" with "a classic example of imputed political opinion," rendering the applicant eligible for asylum. The court there also recognized a presumption of persecution on account of political opinion in the absence of evidence of what it

termed a "legitimate government prosecution" of a suspected militant. See id. at 1509 ("In this case, Singh was not the target of any legitimate government prosecution. As in *Blanco-Lopez*, '[w]e find no evidence in the record . . . that an actual, legitimate, criminal prosecution was initiated against [the applicant.] *Blanco-Lopez* [v. *INS*], 858 F.2d [531], 534 [(9th Cir. 1988)]. If 'there is no evidence of a legitimate prosecutorial purpose for a government's harassment of a person . . . there arises a presumption that the motive for harassment is political.' *Hernandez-Ortiz* v. *INS*, 777 F.2d 509, 516 (9th Cir. 1985) ('When a government exerts its military strength against an individual or a group within its population and there is no reason to believe that the individual or group has engaged in any criminal activity or other conduct that would provide a legitimate basis for governmental action, the most reasonable presumption is that the government's actions are politically motivated.' ")).

This presumption violates the Supreme Court precedent *Elias-Zacarias*, which requires asylum applicants to provide evidence of motivation. Further, this presumption effectively, but improperly, shifts the burden to the government to prove either a "legitimate purpose" for the foreign government's interest in the alien, or that the alien's claim is not credible, or that the alien is barred from asylum relief because, for example, that alien actually is a terrorist or a persecutor.

Plainly, an alien who is a terrorist could more easily fabricate a claim that his home government believes erroneously that he is a terrorist. This is suggested by the case of Gazi Ibrahim Abu Mezer, who was sentenced to life imprisonment for planning to bomb the New York subway system in 1997. See *United States* v. *Khalil,* 214 F.3d 111, 115 (2d Cir. 2000), cert. denied, 531 U.S. 937 (2000). Mezer was free in the United States after he was arrested in Washington State by the Border Patrol, which initiated formal deportation proceedings against him. Special Report of the United States Department of Justice, Office of the Inspector General, "Bombs in Brooklyn: How the Two Illegal Aliens Arrested for Plotting to Bomb the New York Subway Entered and Remained in the United States" (March 1998). While in proceedings, Mezer was released on a $5,000 bond and filed an application for political asylum in the United States. Id. In his asylum application, Mezer claimed that Israeli authorities had persecuted him because they wrongly believed he was a member of Hamas. Id. In support of his claim that Israel authorities had detained him twice without cause, Mezer attached two documents from the International Committee of the Red Cross. Id. One document reflected that Mezer was arrested on July 31, 1990, and held for 42 days for a "security" violation. Id. The second document indicated that Mezer was arrested on November 25, 1990, and held for approximately 90 days for "administrative" reasons. Id.

According to the investigation of the case by the Justice Department's Inspector General, the judge who received that application "did not notice that Mezer had said he was suspected of being a terrorist in Israel. She added that the assertion about Hamas, in itself, was not persuasive evidence that Mezer was a terrorist or that he should be detained, particularly because Mezer denied the assertion and also because he returned for this hearing after he

had posted bond." Id. (emphasis added). The Inspector General continued:

INS trial attorneys whom we interviewed discussed some of the reasons that immigration judges do not normally detain aliens based only on their statements that they had been falsely accused of membership in a terrorist organization. First, they said that it was common for aliens to make such claims in support of asylum applications. INS Trial attorney Tammy Fitting estimated that on average, she saw one such claim each day during her work as a trial attorney.

Id. The burden that the government must bear in responding to such claims is compounded by two other issues. First, a regulation that bars the disclosure of information contained in an asylum application, or even the fact that an alien has applied for asylum, hinders the government's ability to confirm the veracity of asylum claims, or to obtain evidence that contradicts an alien's asylum claims. See 8 CFR § 208.6. Second, information that ties a specific alien to terrorism is likely to be classified. The use of classified information in section 240 removal proceedings is disfavored, however. See e.g., *Haddam* v. *INS,* 54 F. Supp. 2d 588, 598 (E.D.Va. 1999) ("The use of secret evidence against a party, evidence that is given to, and relied on, by the IJ and BIA but kept entirely concealed from the party and the party's counsel, is an obnoxious practice, so unfair that in any ordinary litigation context, its unconstitutionality is manifest.").

The "central reason" standard will eliminate this presumption, and require aliens who allege persecution because they have been erroneously identified as terrorists to bear the same burden as all other asylum applicants, that is, they will have to offer direct or circumstantial evidence of motive, in accordance with Supreme Court precedent.

Finally, with respect to so-called "mixed-motive" claims, under this amendment, asylum may be granted where there is more than one motive for mistreatment, as long as at least one central reason for the mistreatment is on account of race, religion, nationality, membership in a particular social group, or political opinion.

Corroboration and Credibility. Clauses 208(b)(1)(B)(ii) and (iii), added by paragraph 101(a)(3) of Division B, will bring clarity and consistency to evidentiary determinations by codifying standards for determining the credibility of applicant testimony, and determining when corroborating evidence may be required.

Corroboration: As a preliminary matter, new clause 208(b)(1)(B)(ii) of the INA codifies the BIA case law standard that the testimony of an asylum applicant can be sufficient to sustain the asylum applicant's burden of proof without corroboration, where the adjudicator determines that such testimony is credible, persuasive, and refers to specific facts demonstrating refugee status. Many aliens validly seeking asylum arrive in the United States with little or no evidence to corroborate their claims. This clause recognizes that a lack of extrinsic or corroborating evidence will not necessarily defeat an asylum claim where such evidence is not reasonably available to the applicant.

Codifying the BIA's corroboration standards, new clause 208(b)(1)(B)(ii) in the INA states that if an adjudicator determines

that an asylum applicant should provide corroborating evidence for otherwise credible testimony, such corroborating evidence must be provided unless the applicant does not have it and cannot reasonably obtain it. Although this provision makes it possible for an alien to prove eligibility for asylum without corroborating evidence, the inability to obtain corroborating evidence does not relieve the applicant from sustaining the burden of proof, that is, the alien must satisfy his burden through other evidence.

This provision is based upon the standard set forth in the BIA's decision in *Matter of S–M–J–,* 21 I&N Dec. 722. The BIA held there:

> Because the burden of proof is on the alien, an applicant should provide supporting evidence, both of general country conditions and of the specific facts sought to be relied on by the applicant, where such evidence is available. If such evidence is unavailable, the applicant must explain its unavailability, and the Immigration Judge must ensure that the applicant's explanation is included in the record. Moreover, general country condition information may be necessary to support an applicant's testimony where the alien's claim is based on allegations which may be independently verified. "(W)hen the basis of an asylum claim becomes less focused on specific events involving the respondent personally and instead is more directed to broad allegations regarding general conditions in the respondent's country of origin, corroborative background evidence that establishes a plausible context for the persecution claim (or an explanation for the absence of such evidence) may well be essential."

Id. at 724 (internal citations omitted). With respect to evidence to support the applicant's specific claim, the BIA explained:

> Unreasonable demands are not placed on an asylum applicant to present evidence to corroborate particular experiences (e.g., corroboration from the persecutor). However, where it is reasonable to expect corroborating evidence for certain alleged facts pertaining to the specifics of an applicant's claim, such evidence should be provided. That is, an asylum applicant should provide documentary support for material facts which are central to his or her claim and easily subject to verification, such as evidence of his or her place of birth, media accounts of large demonstrations, evidence of a publicly held office, or documentation of medical treatment. If the applicant does not provide such information, an explanation should be given as to why such information was not presented. . . . The absence of such corroborating evidence can lead to a finding that the applicant has failed to meet her burden of proof.

Id. at 725–26. Congress anticipates that the standards in *Matter of S–M–J–,* including the BIA's conclusions on situations where corroborating evidence is or is not required, will guide the BIA and the courts in interpreting this clause.

Credibility: Proposed new clause 208(b)(1)(B)(iii) of the INA codifies factors identified in case law on which an adjudicator may

make a credibility determination, including demeanor, candor, responsiveness, inherent plausibility of the account, consistency between the written and oral statements (regardless of when it was made and whether it was under oath, and considering the circumstances under which the statements were made), internal consistency of a statement, consistency of statements with the country conditions in the country from which the applicant claims asylum, and any inaccuracies or falsehoods in such statements. This section reiterates the rule that an asylum adjudicator is entitled to consider credible testimony along with other evidence.

Again, the creation of a uniform standard for credibility is needed to address a conflict on this issue between the Ninth Circuit on one hand and other circuits and the BIA. In *Elias-Zacarias,* 502 U.S. 478, the Supreme Court rejected the notion that a reviewing court may overturn a determination of the BIA in an asylum case whenever the court believes that the evidence supports a conclusion different from that of the BIA. It explained that "[t]o reverse the BIA finding we must find that the evidence not only supports that conclusion, but compels it." Id. at 481 n.1. Thus, an asylum applicant who "seeks to obtain judicial reversal of the BIA's determination . . . must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." Id. at 483–484.

In 1996, as part of IIRIRA, Congress codified the principles that the Court articulated in *Elias-Zacarias.* Congress directed that a court of appeals reviewing an order of removal must confine its review to the administrative record before the agency and must accept the BIA's findings of fact as "conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." Sections 242(b)(4)(A) and (B) of the INA.

This clause will allow Immigration Judges and the BIA to follow commonsense standards in assessing the credibility of asylum applicants better allowing them to identify and reject fraudulent claims. It should be noted, however, that although clause 208(b)(1)(B)(iii) would allow an adjudicator to base an adverse credibility determination on any of the factors set forth therein, such a determination must be reasonable and take into consideration the individual circumstances of the specific witness and/or applicant.

While the trier of fact is not required to state expressly that the trier has considered each factor in assessing credibility, Congress expects that the trier of fact will describe those factors that form the basis of the trier's opinion. This is true even where the trier of fact bases a credibility determination in part or in whole on the demeanor of the applicant.

Courts have recognized the expertise that Immigration Judges bring to this task. As the Ninth Circuit has held, for example: "An immigration judge alone is in a position to observe an alien's tone and demeanor, to explore inconsistencies in testimony, and to apply workable and consistent standards in the evaluation of testimonial evidence. He is, by virtue of his acquired skill, uniquely qualified to decide whether an alien's testimony has about it the ring of truth." *Sarvia-Quintanilla* v. *INS,* 767 F.2d 1387, 1395 (9th Cir. 1985).

In assessing an applicant's demeanor for purposes of making a credibility assessment, Congress anticipates that triers of fact will rely on those aspects of demeanor that are indicative of truthfulness or deception. For example, in explaining why it "granted special deference to the IJ's eyewitness observations regarding demeanor evidence," the Ninth Circuit cited to an explanation that it had given "in the context of a similarly-situated administrative law judge," holding: "Weight is given to the administrative law judge's determinations of credibility for the obvious reason that he or she 'sees the witnesses and hears them testify, while the Board and the reviewing court look only at cold records.' All aspects of the witness's demeanor—including the expression of his countenance, how he sits or stands, whether he is inordinately nervous, his coloration during critical examination, the modulation or pace of his speech and other non-verbal communication—may convince the observing trial judge that the witness is testifying truthfully or falsely." *Mendoza Manimbao* v. *Ashcroft,* 329 F.3d 655, 662 (9th Cir. 2003). As noted, a credibility determination should follow an examination of all relevant circumstances, including the circumstances of the individual applicant.

Finally, this provision makes it clear that there is no presumption of credibility, but if no adverse credibility determination is explicitly made, the applicant or witness has a rebuttable presumption of credibility on appeal.

Effective Dates. Paragraph 101(g)(2) would provide that the asylum standards established in paragraph 101(a)(3) of Division B shall take effect on the date of enactment and apply to asylum applications made on or after such date, therefore, the standards would not apply by statute to asylum applications filed before the date of enactment, although such standards in existing case law would apply.

Standards for Granting Withholding of Removal. Paragraph 241(b)(3) of the INA places restrictions on removal to a country where an alien's life or freedom would be threatened. Withholding is a form of protection similar to asylum, with some critical differences. Asylum is a discretionary form of relief, for which the standard is a "well-founded fear of persecution." Withholding of removal, on the other hand, is mandatory protection from removal for those who can satisfy the higher standard of a "clear probability of persecution," also expressed as "more likely than not" that an alien would be persecuted. There are other key differences between the two forms of relief. A person who has been granted asylum has been admitted into the United States, although the status is not a right to reside permanently in the United States. An alien who is granted withholding has not been granted legal entry into the United States and may be removed to his country when there is no longer any threat to his life or freedom. Withholding of removal is only specific to a particular country and therefore does not preclude removal to another country. An alien granted withholding of removal may not adjust to the status of a lawful permanent resident and the alien's family members are not eligible to come to the United States via the alien's status in the United States.

In contrast, an alien granted asylum may adjust status under subsection 209(b) of the INA after being present in the United States for one year after the grant of asylum if the alien still meets

the definition of refugee, is not firmly resettled in any other country and is otherwise admissible as an immigrant (with exemptions from certain grounds of inadmissibility). Additionally, under paragraph 208(b)(3) of the INA, the spouse and children of an alien granted asylum, if not otherwise eligible for asylum, may be granted asylum themselves if accompanying or following to join the alien. Aside from the higher standard for burden of proof, withholding of removal involves similar consideration of credibility and corroboration factors and some of the same issues regarding Ninth Circuit jurisprudence.

Subsection 101(c) of Division B would amend paragraph 241(b)(3) of the INA by applying to and codifying for withholding of removal applications the same standards for sustaining the applicable burden of proof and for assessing credibility that would be used for asylum adjudications under clauses 208(b)(1)(B)(ii) and (iii) of the INA, as added by paragraph 101(a)(3) of Division B.

Subsection 101(h)(2) of Division B would provide that the withholding of removal standards established in subsection 101(c) take effect on the date of enactment and apply to withholding applications made on or after such date. Accordingly, those standards would not apply by statute to applications filed before the date of enactment, although such standards in existing case law would apply.

Other Applications for Relief. Subsection 101(d) of Division B would add a new paragraph 240(c)(4) to the INA. This paragraph would apply the credibility and corroboration standards in section 101(a)(3) of Division B to other applications for relief and protection from removal. The new paragraph also codifies the current requirement that an alien applying for relief or protection from removal bears the burden of satisfying the eligibility requirements for that relief or protection, and also that he or she merits that relief as a matter of discretion, if the relief is discretionary.

Subsection 101(h)(2) of Division B would provide that the standards established in subsection 101(d) shall take effect on the date of enactment and apply to withholding applications made on or after such date. Accordingly, those standards would not apply by statute to applications filed before the date of enactment, although such standards in existing case law would apply.

Judicial Review of Corroboration Determinations: Subsection 101(e) of Division B would amend paragraph 242(b)(4) of the INA by establishing a specific standard of review for reversal of determinations concerning the availability of corroborating evidence by an adjudicator considering an application for asylum, withholding of removal, or other applications for relief or protection. This subsection would apply the prevailing standard of review for factual determinations in subparagraph 242(b)(4)(B) of the INA to determinations about the availability of corroborating evidence, itself a factual determination. This provision underscores that the appropriate standard of review for such determinations is the deferential factual review standard.

Subsection 101(g)(3) of Division B would provide that the standards established in subsection 101(e) shall take effect on the date of enactment and apply to all cases in which the final removal order was issued before, on, or after such date.

Clarification of Discretionary Relief Provision: Subsection 101(f) would amend subparagraph 242(a)(2)(B) of the INA by clarifying that the provision barring judicial review of denials of discretionary relief applies regardless of whether the discretionary judgment, decision, or action is made in removal proceedings. It also amends subparagraph 242(a)(2)(B) of the INA by adding reference to the Secretary of Homeland Security, to clarify the text and make it consistent with the aims of the Reorganization Plan for the Department of Homeland Security.

Subsection 101(g)(4) of Division B would provide that the amendments in subsection 101(f) shall take effect on the date of enactment and apply to all cases pending before, on, or after such date.

Removal of Caps. Section 209 of the INA currently provides that the Attorney General may adjust the status of aliens granted asylum to lawful permanent residence if they satisfy certain conditions, subject to a cap of 10,000 persons per fiscal year (aside from certain groups of asylees who are or have been exempt from the cap or subject to limits set in other legislation). Paragraph 101(g)(1) of Division B would eliminate the cap for adjustment of status for asylees. It would also replace references to the "Immigration and Naturalization Service" with references to the "Department of Homeland Security" and replace references to the "Attorney General" with references to the "Secretary of Homeland Security or the Attorney General."

Similarly, under section 207(a)(5) of the INA, not more than 1,000 aliens may be admitted as refugees or granted asylum under the provision of section 101(a)(42) therein relating to persecution for resistance to coercive population control methods. Paragraph 101(g)(2) would strike the limitation on grants under this provision.

Subsection 101(f), lifting these caps, shall take effect on the date of enactment of Division B, pursuant to paragraph 101(g)(5).

Repeal of the Study and Report on Terrorists and Asylum. Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 provides that "the Comptroller General of the United States shall conduct a study to evaluate the extent to which weaknesses in the United States asylum system and withholding of removal system have been or could be exploited by aliens connected to, charged in connection with, or tied to terrorist activity," including the extent to which precedential court decisions may have affected the ability of the Federal Government to prove that an alien is a terrorist who should be denied asylum and/or removed.

Subsection 101(h) of Division B would repeal the requirement for the study and report, because the other provisions in section 101 of Division B would resolve the vulnerability of the asylum and withholding of removal systems to terrorist exploitation.

Section 102 of the conference agreement includes language modified from language proposed in section 102 of division B of the House bill. The Senate did not include similar language.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 provides for construction and strengthening of barriers along U.S. land borders and specifically provides for 14 miles of barriers and roads along the border near San Diego, beginning at the Pacific Ocean and extending eastward. It provides

for a waiver of the Endangered Species Act of 1973 (ESA) and the National Environmental Policy Act of 1969 (NEPA) to the extent the Attorney General determines is necessary to ensure expeditious construction of barriers and roads. Despite the existing waiver provision, construction of the San Diego area barriers has been delayed due to a dispute involving other laws. The California Coastal Commission has prevented completion of the San Diego border security infrastructure because it alleges that plans to complete it are inconsistent with the California Coastal Management Program, a state program approved pursuant to the federal Coastal Zone Management Act (CZMA)—notwithstanding the fact that the San Diego border security infrastructure was designed to avoid and/or minimize adverse environmental impacts, and the Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security testified before the California Coastal Commission that the plans for completion were consistent with the Coastal Management Program to the maximum extent practicable without sacrificing the effectiveness of the border security infrastructure. Continued delays caused by litigation have demonstrated the need for additional waiver authority with respect to other laws that might impede the expeditious construction of security infrastructure along the border, such as the Coastal Zone Management Act.

Current Law. Section 102(c) of IIRIRA provided for a waiver of the ESA and NEPA to the extent the Attorney General determines is necessary to ensure expeditious construction of barriers and roads.

Section 102 of the conference report would amend the current provision to require the Secretary of Homeland Security to waive all laws that he or she determines, in his or her sole discretion, are necessary to ensure the expeditious construction of the border barriers.

Additionally, it would prohibit judicial review of a waiver decision or action by the Secretary and bar judicially ordered compensatory, declaratory, or injunctive, equitable, or any other relief or other remedy for damage alleged to result from any such decision or action. As discussed above, current statutes and the Reorganization Plan for the Department of Homeland Security have not amended and clarified references to executive authority throughout the INA. Accordingly, the provision would have replaced the reference in current law to the Attorney General by a reference to the Secretary of Homeland Security.

The Conferees have revised the House provision in the following respects. First, the revised provision authorizes but does not require the Secretary of DHS to waive any legal requirements that he or she, in his or her sole discretion, determines are necessary to ensure expeditious construction of border security infrastructure. Second, the provision clarifies the intent of the conference report by substituting a reference to waiver of "all legal requirements" for the prior reference to waiver of "all laws", clarifying Congress' intent that the Secretary's discretionary waiver authority extends to any local, state or federal statute, regulation, or administrative order that could impede expeditious construction of border security infrastructure. Third, the conferees provided that any such waiver would become effective upon publication in the Federal Register, thereby ensuring appropriate public notice of such determinations.

Finally, the Conferees have provided federal judicial review for claims alleging that the actions or decisions of the Secretary violate the United States Constitution. The Conferees have further provided that such claims must be filed within sixty days of the Secretary's action or decision, and that interlocutory or final judgments, decrees, or orders of federal district courts on such claims may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States. The Conferees' intent is to ensure that judicial review of actions or decisions of the Secretary not delay the expeditious construction of border security infrastructure, thereby defeating the purpose of the Secretary's waiver.

Section 106 of the conference agreement includes language modified from language proposed in section 105 of division B of the House bill. The Senate did not include similar language.

Section 106 of Division B addresses a number of judicial review anomalies improperly favoring criminal aliens that were created by court decisions interpreting changes to the INA in 1996. Since 1961, Congress has consistently provided that only the courts of appeals may review removal orders. From 1961 through 1996, the INA provided that review in the courts of appeals "shall be the sole and exclusive procedure" for judicial review of deportation orders. See INA subsection 106(a) (1995) (entitled "Exclusiveness of procedure"). As the legislative history behind this provision reveals, Congress aimed to "create a single, separate, statutory form of judicial review of administrative orders for the deportation and exclusion of aliens from the United States." H.R. Rep. No. 1086, 87th Cong., 1st Sess., reprinted in 1961 U.S.C.C.A.N. 2950, 2966 (1961). Congress's "fundamental purpose" was "to abbreviate the process of judicial review of deportation orders" and to "eliminat[e] the previous initial step in obtaining judicial review—a suit in a District Court." *Foti* v. *INS*, 375 U.S. 217, 224 (1963); accord *Agosto* v. *INS*, 436 U.S. 748, 752–53 (1978); *Giova* v. *Rosenberg*, 379 U.S. 18 (1964) (per curiam). Thus, a final order of deportation could be challenged only in the appropriate court of appeals upon a timely filed petition for review.

Such order could not have been challenged in district court by way of habeas corpus. Although the INA contained another provision permitting habeas review, see INA § 106(a)(10) (1995), several circuits interpreted that provision as not providing habeas review over deportation orders, but only review over collateral issues, such as whether the alien should be released from custody or granted a stay of deportation pending a petition for review.

Moreover, to the extent that habeas review of deportation orders had been available before 1996, Congress attempted to eliminate it in enacting the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104–132, 110 Stat. 1214 (April 24, 1996). One of the statute's provisions, entitled "Elimination of Custody Review by Habeas Corpus," expressly repealed the former habeas provision. See subsection 401(e), 110 Stat. 1268, repealing INA paragraph 106(a)(10) (1995). This was part of Congress's broad efforts to streamline immigration proceedings. Indeed, to expedite removal, section 440(a) of AEDPA precluded all judicial review of deportation orders for certain classes of criminal aliens. 110 Stat. 1276–77 (providing that such orders "shall not be subject to review by any court").

Congress continued these streamlining reforms when it enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104–208, 110 Stat. 3546 (Sept. 30, 1996). In IIRIRA, Congress reestablished that only courts of appeals—and not district courts—could review a final removal order (or, to use the pre–1996 nomenclature, deportation order or exclusion order). See section 242(a)(1) of the INA (incorporating the Hobbs Act, 28 U.S.C. § 2347). In addition, Congress made clear that review of a final removal order is the only mechanism for reviewing any issue raised in a removal proceeding. Section 242(b)(9) of the INA (2000); see also IIRIRA § 309(c)(4)(A) (transition rules). Together, these provisions were intended to preclude all district court review of any issue raised in a removal proceeding. Finally, as it did in AEDPA, Congress confirmed that criminal aliens could not obtain any judicial review. IIRIRA expressly provided that, "[n]otwithstanding any other provision of law, no court shall have jurisdiction to review any final order of removal against an alien who is removable by reason of having committed" one of various criminal offenses, including aggravated felonies. See section 242(a)(2)(C) (2000) (emphasis added); see also S. Rep. No. 104–249, 104th Cong, 2d Sess. at 7 ("Aliens who violate U.S. immigration law should be removed from this country as soon as possible.").

Despite Congress's efforts to limit judicial review in 1996, the Supreme Court expanded it just five years later. In *INS* v. *St. Cyr*, the Supreme Court held that criminal aliens are actually entitled to more review than they had before the 1996 amendments, and more review than non-criminal aliens. *INS* v. *St. Cyr*, 533 U.S. 289 (2001). Specifically, the Court held that criminal aliens could seek habeas review of their removal orders under 28 U.S.C. § 2241. With habeas review, the criminal alien would get review in district court and, on appeal, in the court of appeals.

The basis for the Court's decision was that Congress never "explicitly mention[ed]" section 2241 or habeas when it eliminated all judicial review over criminal aliens' removal orders. Id. at 312–13. According to the Court, an explicit reference to section 2241 or habeas was necessary because Congress did not provide for "another judicial forum" for criminal aliens to raise pure questions of law because, as noted, whereas non-criminal aliens could challenge their removal orders in the courts of appeals, under AEDPA and IIRIRA, criminal aliens could not. Id. at 298–300, 312–14; see also id. at 312 n.36 ("Congress" failure to refer specifically to § 2241 is particularly significant."). Thus, as a matter of statutory interpretation, the Court held that criminal aliens could bring habeas actions under section 2241.

The Court recognized that, as a result of its decision, criminal aliens would be able to seek review in district court and, on appeal, in the courts of appeals, whereas non-criminal aliens could obtain review only in the courts of appeals. It noted that Congress could fix this anomaly, however. As the Court stated, "Congress could without raising any constitutional questions, provide an adequate substitute [to section 2241] through the courts of appeals." Id. at 314. n.38.

Among the many problems caused by *St. Cyr,* the most significant is that this decision allows criminal aliens to delay their expulsion from the United States for years.

Furthermore, because of *St. Cyr*, aliens who have committed serious crimes in the United States are generally able to obtain more judicial review than non-criminal aliens. As the dissent in *St. Cyr* pointed out, allowing criminal aliens to obtain habeas review of their immigration orders in the district court "brings forth a version of the statute that affords criminal aliens more opportunities for delay-inducing judicial review than are afforded to non-criminal aliens, or even than were afforded to criminal aliens prior to the legislation concededly designed to expedite their removal." 533 U.S. at 327 (Scalia, J. dissenting). This is because, under *St. Cyr*, criminal aliens are able to begin the judicial review process in the district court, and then appeal to the circuit court of appeals. Criminal aliens thus can obtain review in two judicial forums, whereas non-criminal aliens may generally seek review only in the courts of appeals. Not only is this result unfair and illogical, but it also wastes scarce judicial and executive resources.

Finally, the result in *St. Cyr* has created confusion in the federal courts as to what immigration issues can be reviewed, and which courts can review them. The decision in *St. Cyr* itself held that district courts, and not the courts of appeals, have habeas corpus review authority over statutory claims involving discretionary immigration relief. See also *Calcano-Martinez* v. *INS*, 533 U.S. 348, 351–52 (2001). On the other hand, after *St. Cyr*, every circuit court has held that courts of appeals retain jurisdiction to review limited threshold "jurisdiction to determine jurisdiction" questions raised by criminal aliens in petitions for review. Therefore, following *St. Cyr*, some issues are still reviewable in the circuit courts while others are reviewable only in the district courts, resulting in bifurcated and inefficient review. Additionally, the circuits have split on the question of which court may entertain constitutional challenges to criminal aliens' removal orders (a question left open in *St. Cyr*). All of this has resulted in piecemeal review, uncertainty, lack of uniformity, and a waste of resources both for the judicial branch and Government lawyers—the very opposite of what Congress tried to accomplish in 1996.

Section 106 of Division B would address the anomalies created by *St. Cyr* and its progeny by restoring uniformity and order to the law. First, under this section, criminal aliens will have fewer opportunities to delay their removal, because they will not be able to obtain district court review in addition to circuit court review, and will not be able to ignore the thirty-day time limit on seeking review. Second, criminal aliens will not receive more judicial review than non-criminals. Under the amendments in section 106, all aliens will get review in the same forum—the courts of appeals. Third, by channeling review to the courts of appeals, section 106 will eliminate the problems of bifurcated and piecemeal litigation. Thus, the overall effect of the proposed reforms is to give every alien a fair opportunity to obtain judicial review while restoring order and common sense to the judicial review process.

Significantly, this section does not eliminate judicial review, but simply restores such review to its former settled forum prior to 1996. Under section 106, all aliens who are ordered removed by an immigration judge will be able to appeal to the BIA and then raise constitutional and legal challenges in the courts of appeals. No alien, not even criminal aliens, will be deprived of judicial re-

view of such claims. Unlike AEDPA and IIRIRA, which attempted to eliminate judicial review of criminal aliens' removal orders, section 106 would give every alien one day in the court of appeals, satisfying constitutional concerns. The Supreme Court has held that in supplanting the writ of habeas corpus with an alternative scheme, Congress need only provide a scheme which is an "adequate and effective" substitute for habeas corpus. See *Swain* v. *Pressley,* 430 U.S. 372, 381 (1977). Indeed, in *St. Cyr* itself, the Supreme Court recognized that "Congress could, without raising any constitutional questions, provide an adequate substitute through the courts of appeals." *St. Cyr*, 533 U.S. at 314 n.38 (emphasis added). By placing all review in the courts of appeals, Division B would provide an "adequate and effective" alternative to habeas corpus. Id.

Further, while the reforms in section 106 would preclude criminals from obtaining review over non-constitutional, non-legal claims, it would not change the scope of review that criminal aliens currently receive, because habeas review does not cover discretionary determinations or factual issues that do not implicate constitutional due process. See, e.g., *St. Cyr*, 533 U.S. at 306–07 & n.27 (recognizing that habeas courts do not review "exercise[s] of discretion" or "factual determinations" that do not implicate due process); *Fong Yue Ting* v. *INS*, 149 U.S. 698, 713–14 (1893) ("Congress might intrust the final determination of . . . facts to an executive officer"); *Heikkila* v. *Barber*, 345 U.S. 229, 236 (1953) ("the function of the courts has always been limited to the enforcement of due process requirements"); *Ter Yang* v. *INS*, 109 F.3d 1185, 1195 (7th Cir. 1997) ("the Supreme Court long ago made it clear that this writ does not offer what our petitioners desire: review of discretionary decisions by the political branches of government"); see also *Sol* v. *INS*, 274 F.3d 648, 651 (2d Cir. 2001) (habeas jurisdiction under § 2241 does not extend to factual or discretionary determinations).

Moreover, section 106 would not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.

Review in the Courts of Appeals. Subparagraph 106(a)(1)(A) of Division B would replace habeas corpus review of specified removal orders with review of constitutional claims and questions of law before the courts of appeal.

It should be noted that the word "pure," in the phrase "pure question of law," which had appeared in prior versions of a proposed section 242(a)(2)(D) of the INA, has been deleted from that phrase in the final version in this subparagraph because it is superfluous. As the ACLU explained during the *St. Cyr* litigation, a "question of law" is a question regarding the construction of a statute. The word "pure" adds no meaning. The purpose of section 106(a)(1)(A)(iii) is to permit judicial review over those issues that were historically reviewable on habeas—constitutional and statutory-construction questions, not discretionary or factual questions. When a court is presented with a mixed question of law and fact, the court should analyze it to the extent there are legal elements, but should not review any factual elements. Factual questions include those questions that courts would review under the "substan-

tial evidence" or 242(b)(4)(B) standard, reversing only when a reasonable factfinder would be compelled to conclude that the decision below was erroneous.

Section 106(a)(1)(B) adds a new section 242(a)(4) to the INA. This provision will allow aliens in section 240 removal proceedings to seek review of "any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment" in the courts of appeal.

Section 106(a)(2) of Division B would amend section 242(b)(9) of the INA, concerning consolidation of issues for judicial review, to clarify that, except as otherwise provided in section 242 of the INA, no court is to have jurisdiction for habeas review or other non-direct judicial review of a removal order or questions of law or fact arising from such an order. This does not affect habeas corpus review in section 242(e)(2) of the INA. Subsection 242(g) of the INA, concerning exclusive jurisdiction, is also amended to clarify that no habeas review or other non-direct judicial review would be available for any claim arising from a decision or action by the Attorney General regarding the initiation and adjudication of removal proceedings or the execution of removal orders against any alien.

Under subsection 106(b), the effective date of the amendments in subsection 106(a) is the date of enactment of Division B, and the amendments would apply to cases in which the final administrative order of removal, deportation or exclusion was issued before, on, or after the date of enactment. Subsection 106(c) of Division B would provide for the transfer of pending habeas cases from district courts to federal appellate courts in which they could have been properly filed under section 242(b)(2) of the INA or the transitional rules of IIRIRA.

Subsection 106(d) provides that IIRIRA transition-rule cases filed under former subsection 106(a) of the INA (1995), concerning judicial review of deportation and exclusion cases and repealed by the IIRIRA, shall be treated as if they had been filed under section 242 of the INA and that such petitions shall be the sole avenue for judicial review of deportation or exclusion orders, notwithstanding any other provisions of law, including habeas review or other non-direct judicial review.

Finally, it should also be noted that section 106 will not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.

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

Section 201 of the conference agreement includes language modified from language proposed in section 201 of Division B of the House bill. The Senate did not include similar language.

Section 201 is necessary to clarify the Federal law as it pertains to driver's licenses, and relates it to other federal laws that govern state issuance and records keeping of "motor vehicle operator's license." That means that, to the degree that commercial truck driver's licenses and HAZMAT licenses are separately defined by Title 49, this law is directed to the personal driver's licenses and local use commercial vehicle licenses. It also names identification cards as being regulated, as every entity listed under the "State"

definition issues identity cards as well as driver's licenses. The Act establishes a minimum definition of "Official Purpose" to limit the use of any licenses or ID cards issued by states that do not meet the Act's requirements. More specifically, the definition provides direction as to what certain categories of temporary license marked clearly on their face to indicate they are not acceptable for federal identification or federal purposes and cannot be used. For example, non compliant driver's licenses or noncompliant state issued ID cards cannot be used for identification to board federally regulated commercial aircraft, enter nuclear power plants or have access to federally regulated critical infrastructure or similar facilities determined to be vulnerable to attack. Noncompliant driver's licenses or noncompliant state issued ID cards cannot be used for identification for any federal purpose. The Secretary is authorized to establish other purposes for which only those license and ID cards that meet federal standards can be used.

Section 202 of the conference agreement includes language modified from language proposed in section 202 of Division B of the House bill. The Senate did not include similar language.

202(a)(1) states that the law is binding on Federal agencies—not the states. Consequently, this Act does not directly impose federal standards with respect to states' issuance of driver's licenses and personal identification cards. The application of the law is indirect, and hence states need not comply with the listed standards. However, states would nevertheless need to adopt such standards and modify any conflicting laws or regulations in order for such documents to be recognized by federal agencies for official purposes. The Federal Government regulates driver's licenses issuance now for HAZMAT and commercial trucks, but not with regard to their physical security, counterfeit resistance or with regard to the confirmation of the identity of an applicant before license issuance. There is also federal regulation regarding Driving Under the Influence of alcohol, including requiring suspension of driving privileges, and provides grants to states for prevention programs. Federal law and regulations (23 CFR Chapter III) also provide detailed prescriptions for driver's safety training as a condition for issuance of licenses, and minimum standards for visual features to enable distinction between learner's permits and full validity driver's licenses. There is also a National Driver Register Problem Driver Point System, established by the National Driver Register Act of 1982. This Act established a mandate for states to share information about "bad drivers" through this system. Participation in the NDR is optional, conditioned by Federal grants. All 50 States and the District of Columbia participate in the NDR. The system is also referred to as the Problem Driver Pointer System (PDPS). Regulations governing participants require states to collect more information than required for the minimum document requirements under Section 202 as part of the license issuance process. However, the requirements for proof of identification to obtain a license are generalized. When the REAL ID Act becomes law, CFR 23 will need to be substantially revised by DOT to add details to the pertinent sections, as determined through the Department of Homeland Security established regulations implementing the Act. The primary process by which states will share information regarding the identi-

ties of driver's license holders will be the PDPS, once upgraded and with complimentary system capacity upgrading by the States.

202(a)(2). The Conferees revised HR 418, which placed compliance certification by the States under the authority of the Secretary of Homeland Security, based on certification by the Secretary of Transportation, so that the Secretary of Homeland Security will determine whether a state is complying with its certifications of compliance with the Act. This establishes a new channel of federal regulation and compliance audit by the Department of Homeland Security for identity management, while requiring coordination of regulations with the Department of Transportation (DOT) of driver's license regimes.

Section 202(b) Minimum Document Requirements. The intent of this requirement is to improve the ability of law enforcement officers at all levels to confirm the identity of the individuals presenting state issued driver's licenses or identification cards.

202(b)(1) Many states don't follow the convention of full legal name. For example, a person might "use" a middle name versus his/her first name, and therefore prefer that the driver's license use that name without regard to the "real" first name. Instead of William Beauford Brown, the state driver's license states simply "Beau Brown." Using a name other than a full legal name results in "no matches" when checked against other public records that use the full legal name. This occurred with some of the licenses and state ID cards obtained by the 9/11 terrorists, where the driver's license "names" were variants on the actual name carried in the passport, despite the terrorists' use of their own, valid passports to verify name.

202(b)(2) The person's date of birth is necessary to differentiate the person from others with the same name—for example, there are thousands of John R. Browns in the U.S., but very few have the same birthday. This is particularly relevant to protect people from being delayed at airports because their name coincides with someone on the "do not fly" list. Additional biographic information on the document most citizens present to board a plane will reduce problems with misidentification that currently plague our security processes.

202(b)(3) Gender is for all but a very few persons a clearly definable and verifiable biometric identifier. It allows law enforcement and airport security to quickly match or "no match" a person against a wants and warrant notification. Systematically employing it throughout the country would not only improve identification of suspected terrorists, it would expedite the checks on everyone else by reducing "false positives" where a person is erroneously matched by name with a wanted person.

202(b)(4) Currently every state does post a driver's license number on a permanent driver's license "card," but not all states employ traceable numbers on temporary licenses and temporary state ID cards. This is obviously an important tool in differentiating counterfeit licenses from valid licenses—via a number check.

202(b)(5) requires a digital photograph of the person so that it can be confirmed by comparison to the current and/or future database of the State issuing the license, using existing secure technology designed for that purpose. More than 20 states continue to

use a process where "regular" photos are glued into license forms. These are easily altered by breaking the plastic seal, and replacing the valid photo with one of the person who has stolen or "borrowed" the license or ID card from the person to whom it was validly issued. The intent of requiring a digital photo, as in a passport, is to insure that the photo accurately captures the appearance of the person to whom it was issued. It also allows the state to retain a record of the digital image at a relatively low cost, and be able to provide that image to law enforcement quickly via a computer link.

202(b)(6) Having the person's principal residence address is, in fact, a standard requirement in nearly all states, but many states make no effort to verify that it is the principal residence, and not an address of convenience, or a completely irrelevant address selected at random by the applicant. In this last case, the applicant has normally provided a false address to avoid apprehension for a crime, or notification by law enforcement regarding a civil award. Many scofflaw fathers hide their current location to avoid paying child support, as required by federal law.

202(b)(7) requires a person's signature, so that it can be compared to a person's signature when using the card for identity confirmation for both civil, legal and regular financial transactions, as to verify a credit card signature. Signature verification is another means for a law enforcement officer to confirm identity, and is actually of convenience to retail establishments to confirm check and credit card signatures.

202(b)(8) requires physical security features to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The importance of this requirement cannot be overstated. A majority of states maintain a high level of physical security in the manufacture of their cards. Unfortunately, a significant minority of states do not issue licenses or ID cards with secure physical characteristics. This results in criminals, identity thieves, and amateurs such as college students being able to "manufacture" fake driver's licenses and ID cards from these states. Federal law enforcement officials—national forensic document laboratory—can validate that the driver's licenses of these states are not secure from counterfeiting using easily available technology.

202(b)(9) A common machine-readable technology exists, along with common defined minimum data elements, under the interstate driver's compact to which 46 states already belong. There is inconsistency in actual practice with regard to the order of the data. Further, there has been little research on methods to secure the privacy of the data contained on the machine readable strip. Improvements in the machine readable technology would allow for less data being present on the face of the card in the future, with other data stored securely and only able to be read by law enforcement officials.

Section 202(c) Minimum Issuance Standards. The 9/11 Commission report recommended that the federal government correct the chronic weakness among many of the states in the verification of identity for issuance of licenses. That recommendation has been supported by other reports on criminal justice, drunk driving, and underage drinking, albeit for entirely different objectives. Current federal regulations addressing driver's licenses require the states to

obtain a date of birth for each applicant, but states set their own criteria for what kind of document they can rely on for the DOB. Consequently, the Commission staff report noted that it's similarly easy for a terrorist, or for a tourist, entering the U.S. on a valid visa, to build a "document chain" beginning with a counterfeit or an altered document. Precisely because we have many legal immigrants, States rarely check the authenticity of "green cards" or other immigration documents. Which is why 9–11 terrorist Mohammad Atta was able to pass a hand altered immigration document to get a 6 year Florida's driver's license despite holding what was, in fact, a visa that was about to expire. Once implemented, it will also address the problem in which high school and underage college students obtain authentic driver's licenses in states other than ones they grew up in, with a false age that allows them to go into bars and consume alcohol. The provision will establish minimum issuance standards for federal recognition requiring that before a state can issue a driver's license or photo identification card, it would have to verify with the issuing agency, the issuance, validity and completeness of: (1) a photo identification document or a non-photo document containing both the individual's full legal name and date of birth; (2) date of birth; (3) proof of a social security number (SSN) or verification of the individual's ineligibility for a SSN; and (4) name and address of the individual's principal residence. A comparable, but more loosely defined set of identity verification requirements pertaining to minimum requirements for NDR inquiries are stated in CFR 23, 1327.5 to be "Proof of identification—Acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State." The new requirements do not "preempt any state verification standards" but require that the state establish a common minimum set of standards. Nothing in the law limits a state's prerogative to use other supplementary forms of identity confirmation, nor to use a much lower standard for the issuance of learner's permits or other driving permits that are not eligible to be used for identification purposes by federal agencies. For those forty states who have public policy positions and corroborating state law that establish minimum identity confirmation standards and a legal presence requirement, the standards will provide a common platform.

202(c)(2)—Special Requirements. This requires a state, before issuing a driver's license or identification card to a person, to require a person to present valid documentary evidence that he or she is either a U.S. citizen or national or an alien legally present in the United States. CRS has noted that there are no special requirements relating to the issuance of identification cards to persons who are not U.S. citizens but are nonetheless U.S. nationals (i.e., most residents of American Samoa or Swain's Island). That will not be necessary within the Act, as the Secretaries of DHS and DOT will accordingly address those special categories of U.S. nationals (a U.S. citizen or "a person who, though not a citizen of the United States, owes permanent allegiance to the United States").

For those states electing to conform to the requirements of this Act, so that their driver's licenses will be accepted for identification purposes by the federal government, this set of requirements estab-

lishes the basis for a common statutory basis for subsequent federal regulations.

202(c)(2)(B) The evidence of Legal Status requirements conform almost exactly to those of the laws of the Commonwealth of Virginia, and are parallel to the state laws of New York, Florida, California and roughly thirty other states which have passed laws requiring evidence of lawful presence in the United States. It requires for state license and ID cards verification that an applicant is lawfully present (not present in violation of the Immigration and Naturalization Act) in the United States before issuing a driver's license or personal identification card that is intended to be used for identification purposes by federal agencies. Under this section, persons would only be eligible for temporary drivers' licenses or identification cards if evidence is presented that they: (1) have a valid, unexpired non-immigrant visa or non-immigrant visa status for entry into the United States; (2) have a pending or approved application for asylum in the United States; (3) have entered into the United States in refugee status; (4) have a pending or approved application for temporary protected status in the United States; (5) have approved deferred action status; or (6) have 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.

202(c)(2)(C) This establishes that, in order to issue temporary licenses or temporary ID cards that will be acceptable to the federal government for identification purposes, a state may only issue a temporary driver's license or identification card with an expiration date equal to the period of time of the applicant's authorized stay in the United States. Clause ii provides that if there is an indefinite end to the period of authorized stay, the card's expiration date shall be one year. The temporary card shall clearly indicate that it is temporary and shall state the expiration date. Clause iii provides for clear display of the expiration date on a temporary card, which is an extremely important requirement for the benefit of public safety and security personnel, police and others who need to inspect people for entry to airports, secure facilities, and for official federal purposes, as defined in the act and by subsequent regulations. A clear display facilitates an expedited inspection, and a clear date to determine validity of the temporary licenses. Clause iv provides that renewals of the temporary cards would be done only upon presentation of valid documentary evidence that the status had been extended by the Secretary of Homeland Security. This is important because renewals of temporary licenses were exploited by the 9/11 terrorists, and have been a major security vulnerability with foreign visitors who decide to overstay their valid visa terms.

202(c)(3)(B) The requirement that licenses for ID purposes for foreign visitors not be issued except when the applicant's identity is confirmed by a passport is intended to strengthen the identify confirmation process for foreign visitors, and to stop the process of accepting unreliable foreign documents for identification. Should an applicant who is not a U.S. citizen or immigrant otherwise meet the identification standards set out in the bill, a State must only provide a temporary license or certificate limited to one year's duration and clearly marked as not for identification, with the notifi-

cation to the holder that it is not valid for federal identification or official federal purposes.

202(c)(3)(C) The Act, for purposes of validating states' determination of lawful presence requires that all States 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, to verify the legal presence status of a person, other than a United States citizen or national, applying for a driver's license or identification card.

Section 202(d) Other requirements are each new procedural standards to be addressed by regulations to be established by DHS under the Act.

202(d)(1) Obtaining and retaining digital images of applicants will assist in expediting applicant identity confirmation for license and ID card renewal process. It will also assist with preventing fraud, and facilitate those states using photo comparison software to identify such frauds, and safeguard against identity theft.

202(d)(2) requires states to keep records of source documents (birth certificates, etc.) for at least 7 years primarily to allow for renewal of driver's licenses without requiring license holders to bring back identity confirming documents. It also establishes a minimum duration during which documentation is available to law enforcement officers investigating and prosecuting suspected identity concealment by criminals and terrorists, as well as obtaining proof and assistance with identity theft crimes. This corrects a current problem in which states don't retain records at all, or destroy them after a few months, hence destroying both the audit trail of proof of valid documents needed to issue a license, as well as fraudulent documents used by law breakers until subsequently discovered by investigators. Although the FBI has provided the counts now used about the false identities maintained by the 19 9–11 terrorists, they may in fact have had more, as state records systems are sometimes so poor that few source documents are available to confirm or deny. The goal is to move all the state's records into electronic format, with each state consolidating electronic records otherwise maintained at County level at the State level. The cost is much lower than the paper filing system still maintained by some States. The initial capital cost for the state is not insignificant, but the incremental savings are great. Although this Act will require licenses be re-issued after every eight years, states will need to have original document records to discern whether the birth certificate was valid that was originally presented when the prior license was issued. The Social Security Administration is pursuing a birth certificate records system with the States that is beginning to have an effect in a few pilot states, which program will be further accelerated by the program put into law through the Intelligence Reform Act that will reduce the state's need to retain a separate record of document images or paper records.

202(d)(3) The requirement to photograph each applicant has as its purpose capturing a recorded photograph of applicants who may be denied a license for insufficient documents or documents that are recognized as fraudulent. This will primarily act as a deterrent to attempted fraud, once the public becomes aware of this new procedure, since frauds and others using false identities will understand that their photograph will be available to law enforcement

even if they are denied a license or ID card. It is a particularly important tool for federal law enforcement investigating suspected terrorism and identity theft.

202(d)(4) The requirement to establish an effective procedure to confirm or verify a renewing applicant's information will establish a qualitative floor standard to correct the current problem in some states where license and ID card renewal is done without adequate confirmation of identity of the applicant. Those inadequate procedures are both a source of identity theft and a vulnerability that terrorists might exploit.

202(d)(5) imposes an important requirement to correct a current practice of many states in which multiple driver's licenses with multiple names are allowed to use the same reference Social Security Number as the "reference" SSN to confirm identity. In the event that a SSN 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. The need for this requirement is illustrated by what was found in Virginia and in New York State when state laws in each were changed post 9/11. In 2002, when Virginia began reconciling SSNs with the Social Security Administration, it found the SSNs of more than a quarter million of its license holders were "non-matches" with the Social Security Administration's records. Similarly New York State found hundreds of thousands of similar license holders in its database.

202(d)(6) corrects the current security vulnerability of state procedures where a license or ID card issued by another state is replaced with a new license or ID card without confiscating the "old" card or notifying the other state of the new issuance. Several of the 9/11 terrorists told the issuing states that they had lost their licenses so that they could have two valid licenses, and then used the duplicate to obtain a license in another state, allowing them to hold multiple licenses from multiple states. This practice of obtaining multiple licenses in multiple states is also routinely exercised by criminals and bad drivers for their respective illegal purposes, which this requirement will correct.

202(d)(7) requiring improved physical security, addresses a growing problem of identity thieves and documents purveyors breaking into state facilities and stealing license stock blanks, printing machines, and sometimes actual computer hard drives in which current license holder data is stored.

202(d)(8) subjects state personnel and contractors employed by the states who produce the driver's licenses to security clearance requirements. Investigations of driver's license insider corruption in Virginia, New Jersey and other states in the past three years revealed that a routine security investigation would have prevented key perpetrators from ever being employed to handle documents of high "street" value that can be sold to illegal aliens, criminals, terrorists, and identity thieves.

202(d)(9) requires states to train employees to detect fraud "before it happens" to reduce vulnerability to terrorists, identity thieves, alien smugglers and illegal aliens with false documents and "bad driver" frauds. A few states do this now, and all states need to do this to improve the integrity of the license issuing process.

202(d)(10) limits the term of validity of driver's licenses and ID cards to establish a maximum term, to address the current vulnerability to identity thieves who steal or purchase the valid driver's license, and then assume the identity of a dead person or someone who has left the state, and go undiscovered for an indefinite period.

202(d)(11) provides for those categories of special licenses issued by states for local or temporary purposes where the identity of the applicant cannot be assured, or for whom lawful presence is not determined. Examples of such licenses or Florida licenses issued as valid only for "in state" purposes, and certificates of driving privileges issued by Tennessee and Utah, for which the applicants cannot meet the identity confirmation requirements of the Act. Subparagraph A establishes the requirement that such documents and/or cards be clearly marked as not accepted for federal identification. The provision will allow the state to meet the terms of this act with regard to its non-standard licenses, provided DHS confirms its certification that its procedures don't provide any "back doors" to licenses or ID cards that are intended to be valid for federal identification or federal purposes. Subparagraph B requires a unique design or color indicator such as a special colored border so that federal officials can quickly recognize it is not valid for federal identification or federal purposes.

202(d)(12) requires each state to be able to electronically access information contained in other states' motor vehicle databases. DHS will be expected to establish regulations which adequately protect the privacy of the holders of licenses and ID cards which meet the standards for federal identification and federal purposes. DHS regulations pertaining to the overall security of state databases to safeguard them from unauthorized access or any criminal abuse are not required by this Act because DHS is already subject to privacy protection standards through other federal laws pertaining to cyber security.

202(d)(13) The requirement for states to maintain a motor vehicle database that contains all data fields printed on driver's licenses and identification cards is directed at those states which currently don't store adequate records to allow other states to confirm the validity of the original issues. This requirement is primarily to address identity management minimum standards, and to support the goal of "only one license for one driver." This provision in both parts will correct a significant problem that has led to some states refusing to provide reciprocity to other states with regard to both adequate data and assurance of driver safety, particularly with regard to Driving Under the Influence citations.

Section 203 of the conference agreement includes language modified from language proposed in section 204 of division B of the House bill. The Senate did not include similar language.

Section 203. This section amends 18 U.S.C. § 1028(a)(8), which makes it a federal crime to transport, transfer, or otherwise dispose of to another, materials or features used on a document of the type intended or commonly used for identification purposes. By replacing the phrase "false identification features" with "false or actual authentication features," this provision clarifies the scope of the criminal provision, making it a crime to traffic in identification features regardless of whether the feature is false. In addition, section 203(b) requires that the Secretary of Homeland Security enter con-

viction information into the appropriate aviation screening database. This provision should improve the security of the clearance process while reducing incidents of travelers being delayed because of similar names with people on the "do not fly" watch list.

Section 204 of the conference agreement includes language modified from language proposed in section 205 of division B of the House bill. The Senate did not include similar language.

Section 204 provides grants to states under the discretion of the Secretary of Homeland Security. This will require DHS to establish a process for grant requests, and the time table under which states will need to meet the requirements of the regulations. Some states are already in compliance with nearly all of the standards established by the act, and it will be incumbent upon DHS to recognize that grants should be only used to assist those states which cannot otherwise meet the minimum standards by the end of 2009. DHS will also need to establish internal certification procedures so that grants awarded are spent for the purposes identified. This provision also authorizes the Secretary to request funds and assign personnel for the administration of this Act through the normal process.

Section 205 of the conference agreement includes language modified from language proposed in section 206 of division B of the House bill. The Senate did not include similar language.

Section 205 requires the Secretary of Homeland Security to consult with the Secretary of Transportation and with the states in the process under which DHS issues regulations, sets standards, and issues grants under this title. This provision establishes that the Secretary, consistent with the Administrative Procedures Act, will follow a conventional regulatory notice procedure, including the established interagency notification regime, and will not engage in any other form of rulemaking, such as negotiated rule making.

Section 205 also allows the Secretary of DHS to grant an extension of time only to meet the requirements of section 202(a)(1), which means that all states must meet standards established by the regulation with a uniform deadline for their respective driver's licenses and ID cards to be used for Federal identification and federal purposes.

Section 206 of the conference agreement includes language modified from language proposed in section 207 of division B of the House bill. The Senate did not include similar language.

Section 206 also repeals overlapping and potentially conflicting provisions of the Intelligence Reform and Terrorism Prevention Act of 2004.

Section 207 of the conference agreement includes language modified from language proposed in section 208 of division B of the House bill. The Senate did not include similar language.

Section 207 provides a normal limitation on statutory construction to preserve the authorities and responsibilities of the Secretary of Transportation.

TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY INTEGRATION

Section 301 of the conference agreement includes language modified from language proposed in section 301 of division B of the House bill. The Senate did not include similar language.

Section 301 requires 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, to study the technology, equipment, and personnel needed by field offices of the Bureau of Customs and Border Protection to address security vulnerabilities within the United States, and conduct a follow-up study at least once every five years thereafter. The Under Secretary of Homeland Security for Border and Transportation Security is required to submit a report to Congress of findings and conclusions from each study, along with legislative recommendations for addressing security vulnerabilities. Section 301(c) authorizes necessary appropriations for fiscal years 2006 through 2011 to carry out recommendations from the first study.

Section 302 of the conference agreement includes language modified from language proposed in section 302 of division B of the House bill. The Senate did not include similar language.

Section 302 requires the Department of Homeland Security to establish a pilot program to identify and test ground surveillance technologies to enhance border security. The program would cover both northern and southern border locations. It also requires DHS to submit a report to designated House and Senate committees within a year of program implementation describing the program and recommending whether it should terminate, be made permanent, or be enhanced.

Section 303 of the conference agreement includes language modified from language proposed in section 303 of division B of the House bill. The Senate did not include similar language.

Section 303 requires the Secretary of Homeland Security, in consultation with various federal, state, local, and tribal agencies, to develop and implement a plan to improve interagency communication systems and enhance information-sharing on matters related to border security on the federal, state, local, and tribal level. DHS would submit a report to designated House and Senate committees within a year of plan implementation which would include any recommendations that the Secretary of Homeland Security found appropriate.

TITLE IV—TEMPORARY WORKERS

The conference agreement includes language modified from language proposed by the Senate regarding numerical limits for H2–B visas for certain nonimmigrant workers. The House did not include similar language.

TITLE V—OTHER CHANGES TO PROVISIONS GOVERNING NONIMMIGRANT AND IMMIGRANT VISAS

The conference agreement includes language modified from language proposed by the Senate regarding reciprocal visas for national of Australia. The House did not include similar language.

The conference agreement includes language modified from language proposed by the Senate regarding visas for nurses. The House did not include similar language.

The conferees agree to the Senate amendment relating to the title of the Act. The Senate amended the title to read "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.".

JERRY LEWIS,
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THAD COCHRAN,
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PETE V. DOMENICI,
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ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK LEAHY
(with exception for REAL ID),
TOM HARKIN
(with exception for REAL ID),
BARBARA MIKULSKI
(with exception for REAL ID),
HARRY REID
(with exception for REAL ID),
BYRON L. DORGAN
(with res.—conference did not reconvene),
DIANNE FEINSTEIN

(with exception for REAL ID),

TIM JOHNSON,

MARY LANDRIEU,

Managers on the Part of the Senate.

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