

Xerox

109TH CONGRESS <i>1st Session</i>	}	HOUSE OF REPRESENTATIVES	{	REPORT 109-__
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MAKING APPROPRIATIONS FOR THE DEPARTMENT OF DE-
FENSE FOR THE FISCAL YEAR ENDING SEPTEMBER 30,
2006, AND FOR OTHER PURPOSES

DECEMBER __, 2005.—Ordered to be printed

Mr. _____, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2863].

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2863) "making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, 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 an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

DIVISION A
DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

GPO: set
all ital.
through
page 148

1 That the following sums are appropriated, out of any
2 money in the Treasury not otherwise appropriated, for the
3 fiscal year ending September 30, 2006, for military func-
4 tions administered by the Department of Defense and for
5 other purposes, namely:

6 TITLE I

7 MILITARY PERSONNEL

8 MILITARY PERSONNEL, ARMY

9 For pay, allowances, individual clothing, subsistence,
10 interest on deposits, gratuities, permanent change of sta-
11 tion travel (including all expenses thereof for organiza-
12 tional movements), and expenses of temporary duty travel
13 between permanent duty stations, for members of the
14 Army on active duty, (except members of reserve compo-
15 nents provided for elsewhere), cadets, and aviation cadets;
16 for members of the Reserve Officers' Training Corps; and
17 for payments pursuant to section 156 of Public Law 97-
18 377, as amended (42 U.S.C. 402 note), and to the Depart-
19 ment of Defense Military Retirement Fund,
20 \$28,191,287,000.

21 MILITARY PERSONNEL, NAVY

22 For pay, allowances, individual clothing, subsistence,
23 interest on deposits, gratuities, permanent change of sta-
24 tion travel (including all expenses thereof for organiza-
25 tional movements), and expenses of temporary duty travel

1 between permanent duty stations, for members of the
2 Navy on active duty (except members of the Reserve pro-
3 vided for elsewhere), midshipmen, and aviation cadets; for
4 members of the Reserve Officers' Training Corps; and for
5 payments pursuant to section 156 of Public Law 97-377,
6 as amended (42 U.S.C. 402 note), and to the Department
7 of Defense Military Retirement Fund, \$22,788,101,000.

8 MILITARY PERSONNEL, MARINE CORPS

9 For pay, allowances, individual clothing, subsistence,
10 interest on deposits, gratuities, permanent change of sta-
11 tion travel (including all expenses thereof for organiza-
12 tional movements), and expenses of temporary duty travel
13 between permanent duty stations, for members of the Ma-
14 rine Corps on active duty (except members of the Reserve
15 provided for elsewhere); and for payments pursuant to sec-
16 tion 156 of Public Law 97-377, as amended (42 U.S.C.
17 402 note), and to the Department of Defense Military Re-
18 tirement Fund, \$8,968,884,000.

19 MILITARY PERSONNEL, AIR FORCE

20 For pay, allowances, individual clothing, subsistence,
21 interest on deposits, gratuities, permanent change of sta-
22 tion travel (including all expenses thereof for organiza-
23 tional movements), and expenses of temporary duty travel
24 between permanent duty stations, for members of the Air
25 Force on active duty (except members of reserve compo-

1 nents provided for elsewhere), cadets, and aviation cadets;
2 for members of the Reserve Officers' Training Corps; and
3 for payments pursuant to section 156 of Public Law 97-
4 377, as amended (42 U.S.C. 402 note), and to the Depart-
5 ment of Defense Military Retirement Fund,
6 \$23,199,850,000.

7 RESERVE PERSONNEL, ARMY

8 For pay, allowances, clothing, subsistence, gratuities,
9 travel, and related expenses for personnel of the Army Re-
10 serve on active duty under sections 10211, 10302, and
11 3038 of title 10, United States Code, or while serving on
12 active duty under section 12301(d) of title 10, United
13 States Code, in connection with performing duty specified
14 in section 12310(a) of title 10, United States Code, or
15 while undergoing reserve training, or while performing
16 drills or equivalent duty or other duty, and expenses au-
17 thorized by section 16131 of title 10, United States Code;
18 and for payments to the Department of Defense Military
19 Retirement Fund, \$3,172,669,000.

20 RESERVE PERSONNEL, NAVY

21 For pay, allowances, clothing, subsistence, gratuities,
22 travel, and related expenses for personnel of the Navy Re-
23 serve on active duty under section 10211 of title 10,
24 United States Code, or while serving on active duty under
25 section 12301(d) of title 10, United States Code, in con-

1 nection with performing duty specified in section 12310(a)
2 of title 10, United States Code, or while undergoing re-
3 serve training, or while performing drills or equivalent
4 duty, and expenses authorized by section 16131 of title
5 10, United States Code; and for payments to the Depart-
6 ment of Defense Military Retirement Fund,
7 \$1,686,099,000.

8 RESERVE PERSONNEL, MARINE CORPS

9 For pay, allowances, clothing, subsistence, gratuities,
10 travel, and related expenses for personnel of the Marine
11 Corps Reserve on active duty under section 10211 of title
12 10, United States Code, or while serving on active duty
13 under section 12301(d) of title 10, United States Code,
14 in connection with performing duty specified in section
15 12310(a) of title 10, United States Code, or while under-
16 going reserve training, or while performing drills or equiv-
17 alent duty, and for members of the Marine Corps platoon
18 leaders class, and expenses authorized by section 16131
19 of title 10, United States Code; and for payments to the
20 Department of Defense Military Retirement Fund,
21 \$513,001,000.

22 RESERVE PERSONNEL, AIR FORCE

23 For pay, allowances, clothing, subsistence, gratuities,
24 travel, and related expenses for personnel of the Air Force
25 Reserve on active duty under sections 10211, 10305, and

1 8038 of title 10, United States Code, or while serving on
2 active duty under section 12301(d) of title 10, United
3 States Code, in connection with performing duty specified
4 in section 12310(a) of title 10, United States Code, or
5 while undergoing reserve training, or while performing
6 drills or equivalent duty or other duty, and expenses au-
7 thorized by section 16131 of title 10, United States Code;
8 and for payments to the Department of Defense Military
9 Retirement Fund, \$1,296,646,000.

10 NATIONAL GUARD PERSONNEL, ARMY

11 For pay, allowances, clothing, subsistence, gratuities,
12 travel, and related expenses for personnel of the Army Na-
13 tional Guard while on duty under section 10211, 10302,
14 or 12402 of title 10 or section 708 of title 32, United
15 States Code, or while serving on duty under section
16 12301(d) of title 10 or section 502(f) of title 32, United
17 States Code, in connection with performing duty specified
18 in section 12310(a) of title 10, United States Code, or
19 while undergoing training, or while performing drills or
20 equivalent duty or other duty, and expenses authorized by
21 section 16131 of title 10, United States Code; and for pay-
22 ments to the Department of Defense Military Retirement
23 Fund, \$4,912,794,000.

1 NATIONAL GUARD PERSONNEL, AIR FORCE

2 For pay, allowances, clothing, subsistence, gratuities,
3 travel, and related expenses for personnel of the Air Na-
4 tional Guard on duty under section 10211, 10305, or
5 12402 of title 10 or section 708 of title 32, United States
6 Code, or while serving on duty under section 12301(d) of
7 title 10 or section 502(f) of title 32, United States Code,
8 in connection with performing duty specified in section
9 12310(a) of title 10, United States Code, or while under-
10 going training, or while performing drills or equivalent
11 duty or other duty, and expenses authorized by section
12 16131 of title 10, United States Code; and for payments
13 to the Department of Defense Military Retirement Fund,
14 \$2,267,732,000.

15 TITLE II

16 OPERATION AND MAINTENANCE

17 OPERATION AND MAINTENANCE, ARMY

18 ~~(INCLUDING TRANSFER OF FUNDS)~~

19 For expenses, not otherwise provided for, necessary
20 for the operation and maintenance of the Army, as author-
21 ized by law; and not to exceed \$11,478,000 can be used
22 for emergencies and extraordinary expenses, to be ex-
23 pended on the approval or authority of the Secretary of
24 the Army, and payments may be made on his certificate
25 of necessity for confidential military purposes,

1 \$24,105,470,000: *Provided*, That of funds made available
2 under this heading, \$2,000,000 shall be available for Fort
3 Baker, in accordance with the terms and conditions as
4 provided under the heading "Operation and Maintenance,
5 Army", in Public Law 107-117: *Provided further*, That
6 notwithstanding any other provision of law, the Secretary
7 of the Army may provide a grant of up to \$10,000,000
8 from funds made available in this or any other Depart-
9 ment of Defense Appropriations Act to the Army Distaff
10 Foundation.

11 OPERATION AND MAINTENANCE, NAVY

12 For expenses, not otherwise provided for, necessary
13 for the operation and maintenance of the Navy and the
14 Marine Corps, as authorized by law; and not to exceed
15 \$6,003,000 can be used for emergencies and extraordinary
16 expenses, to be expended on the approval or authority of
17 the Secretary of the Navy, and payments may be made
18 on his certificate of necessity for confidential military pur-
19 poses, \$29,995,383,000.

20 OPERATION AND MAINTENANCE, MARINE CORPS

21 For expenses, not otherwise provided for, necessary
22 for the operation and maintenance of the Marine Corps,
23 as authorized by law, \$3,695,256,000.

1 OPERATION AND MAINTENANCE, AIR FORCE

2 For expenses, not otherwise provided for, necessary
3 for the operation and maintenance of the Air Force, as
4 authorized by law; and not to exceed \$7,699,000 can be
5 used for emergencies and extraordinary expenses, to be ex-
6 pended on the approval or authority of the Secretary of
7 the Air Force, and payments may be made on his certifi-
8 cate of necessity for confidential military purposes,
9 \$30,313,136,000.

10 OPERATION AND MAINTENANCE, DEFENSE-WIDE

11 (INCLUDING TRANSFER OF FUNDS)

12 For expenses, not otherwise provided for, necessary
13 for the operation and maintenance of activities and agen-
14 cies of the Department of Defense (other than the military
15 departments), as authorized by law, \$18,500,716,000:
16 *Provided*, That not more than \$25,000,000 may be used
17 for the Combatant Commander Initiative Fund authorized
18 under section 166a of title 10, United States Code: *Pro-*
19 *vided further*, That not to exceed \$36,000,000 can be used
20 for emergencies and extraordinary expenses, to be ex-
21 pended on the approval or authority of the Secretary of
22 Defense, and payments may be made on his certificate of
23 necessity for confidential military purposes: *Provided fur-*
24 *ther*, That notwithstanding any other provision of law, of
25 the funds provided in this Act for Civil Military programs

1 under this heading, \$500,000 shall be available for a grant
2 for Outdoor Odyssey, Roaring Run, Pennsylvania, to sup-
3 port the Youth Development and Leadership program and
4 Department of Defense STARBASE program: *Provided*
5 *further*, That of the funds made available under this head-
6 ing, \$4,250,000 is available for contractor support to co-
7 ordinate a wind test demonstration project on an Air
8 Force installation using wind turbines manufactured in
9 the United States that are new to the United States mar-
10 ket and to execute the renewable energy purchasing plan:
11 *Provided further*, That of the funds provided under this
12 heading, not less than \$27,009,000 shall be made avail-
13 able for the Procurement Technical Assistance Coopera-
14 tive Agreement Program, of which not less than
15 \$3,600,000 shall be available for centers defined in 10
16 U.S.C. 2411(1)(D): *Provided further*, That none of the
17 funds appropriated or otherwise made available by this
18 Act may be used to plan or implement the consolidation
19 of a budget or appropriations liaison office of the Office
20 of the Secretary of Defense, the office of the Secretary
21 of a military department, or the service headquarters of
22 one of the Armed Forces into a legislative affairs or legis-
23 lative liaison office: *Provided further*, That \$4,000,000, to
24 remain available until expended, is available only for ex-
25 penses relating to certain classified activities, and may be

1 transferred as necessary by the Secretary to operation and
2 maintenance appropriations or research, development, test
3 and evaluation appropriations, to be merged with and to
4 be available for the same time period as the appropriations
5 to which transferred: *Provided further*, That any ceiling
6 on the investment item unit cost of items that may be pur-
7 chased with operation and maintenance funds shall not
8 apply to the funds described in the preceding proviso: *Pro-*
9 *vided further*, That the transfer authority provided under
10 this heading is in addition to any other transfer authority
11 provided elsewhere in this Act.

12 OPERATION AND MAINTENANCE, ARMY RESERVE

13 For expenses, not otherwise provided for, necessary
14 for the operation and maintenance, including training, or-
15 ganization, and administration, of the Army Reserve; re-
16 pair of facilities and equipment; hire of passenger motor
17 vehicles; travel and transportation; care of the dead; re-
18 cruiting; procurement of services, supplies, and equip-
19 ment; and communications, \$1,973,382,000.

20 OPERATION AND MAINTENANCE, NAVY RESERVE

21 For expenses, not otherwise provided for, necessary
22 for the operation and maintenance, including training, or-
23 ganization, and administration, of the Navy Reserve; re-
24 pair of facilities and equipment; hire of passenger motor
25 vehicles; travel and transportation; care of the dead; re-

1 recruiting; procurement of services, supplies, and equip-
2 ment; and communications, \$1,244,795,000.

3 OPERATION AND MAINTENANCE, MARINE CORPS

4 RESERVE

5 For expenses, not otherwise provided for, necessary
6 for the operation and maintenance, including training, or-
7 ganization, and administration, of the Marine Corps Re-
8 serve; repair of facilities and equipment; hire of passenger
9 motor vehicles; travel and transportation; care of the dead;
10 recruiting; procurement of services, supplies, and equip-
11 ment; and communications, \$202,734,000.

12 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

13 For expenses, not otherwise provided for, necessary
14 for the operation and maintenance, including training, or-
15 ganization, and administration, of the Air Force Reserve;
16 repair of facilities and equipment; hire of passenger motor
17 vehicles; travel and transportation; care of the dead; re-
18 cruiting; procurement of services, supplies, and equip-
19 ment; and communications, \$2,499,286,000.

20 OPERATION AND MAINTENANCE, ARMY NATIONAL

21 GUARD

22 For expenses of training, organizing, and admin-
23 istering the Army National Guard, including medical and
24 hospital treatment and related expenses in non-Federal
25 hospitals; maintenance, operation, and repairs to struc-

1 tures and facilities; hire of passenger motor vehicles; per-
2 sonnel services in the National Guard Bureau; travel ex-
3 penses (other than mileage), as authorized by law for
4 Army personnel on active duty, for Army National Guard
5 division, regimental, and battalion commanders while in-
6 specting units in compliance with National Guard Bureau
7 regulations when specifically authorized by the Chief, Na-
8 tional Guard Bureau; supplying and equipping the Army
9 National Guard as authorized by law; and expenses of re-
10 pair, modification, maintenance, and issue of supplies and
11 equipment (including aircraft), \$4,491,109,000: *Provided,*
12 That \$8,500,000 shall be available for the operations and
13 development of training and technology for the Joint
14 Interagency Training Center-East and the affiliated Cen-
15 ter for National Response at the Memorial Tunnel and
16 for providing homeland defense/security and traditional
17 warfighting training to the Department of Defense, other
18 federal agency, and state and local first responder per-
19 sonnel at the Joint Interagency Training Center-East.

20 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

21 For expenses of training, organizing, and admin-
22 istering the Air National Guard, including medical and
23 hospital treatment and related expenses in non-Federal
24 hospitals; maintenance, operation, and repairs to struc-
25 tures and facilities; transportation of things, hire of pas-

1 senger motor vehicles; supplying and equipping the Air
2 National Guard, as authorized by law; expenses for repair,
3 modification, maintenance, and issue of supplies and
4 equipment, including those furnished from stocks under
5 the control of agencies of the Department of Defense;
6 travel expenses (other than mileage) on the same basis as
7 authorized by law for Air National Guard personnel on
8 active Federal duty, for Air National Guard commanders
9 while inspecting units in compliance with National Guard
10 Bureau regulations when specifically authorized by the
11 Chief, National Guard Bureau, \$4,701,306,000.

12 UNITED STATES COURT OF APPEALS FOR THE ARMED
13 FORCES

14 For salaries and expenses necessary for the United
15 States Court of Appeals for the Armed Forces,
16 \$11,236,000, of which not to exceed \$5,000 may be used
17 for official representation purposes.

18 ENVIRONMENTAL RESTORATION, ARMY
19 (INCLUDING TRANSFER OF FUNDS)

20 For the Department of the Army, \$407,865,000, to
21 remain available until transferred: *Provided*, That the Sec-
22 retary of the Army shall, upon determining that such
23 funds are required for environmental restoration, reduc-
24 tion and recycling of hazardous waste, removal of unsafe
25 buildings and debris of the Department of the Army, or

1 for similar purposes, transfer the funds made available by
2 this appropriation to other appropriations made available
3 to the Department of the Army, to be merged with and
4 to be available for the same purposes and for the same
5 time period as the appropriations to which transferred:
6 *Provided further*, That upon a determination that all or
7 part of the funds transferred from this appropriation are
8 not necessary for the purposes provided herein, such
9 amounts may be transferred back to this appropriation.

10 ENVIRONMENTAL RESTORATION, NAVY

11 (INCLUDING TRANSFER OF FUNDS)

12 For the Department of the Navy, \$305,275,000, to
13 remain available until transferred: *Provided*, That the Sec-
14 retary of the Navy shall, upon determining that such
15 funds are required for environmental restoration, reduc-
16 tion and recycling of hazardous waste, removal of unsafe
17 buildings and debris of the Department of the Navy, or
18 for similar purposes, transfer the funds made available by
19 this appropriation to other appropriations made available
20 to the Department of the Navy, to be merged with and
21 to be available for the same purposes and for the same
22 time period as the appropriations to which transferred:
23 *Provided further*, That upon a determination that all or
24 part of the funds transferred from this appropriation are

1 not necessary for the purposes provided herein, such
2 amounts may be transferred back to this appropriation.

3 ENVIRONMENTAL RESTORATION, AIR FORCE

4 (INCLUDING TRANSFER OF FUNDS)

5 For the Department of the Air Force, \$406,461,000,
6 to remain available until transferred: *Provided*, That the
7 Secretary of the Air Force shall, upon determining that
8 such funds are required for environmental restoration, re-
9 duction and recycling of hazardous waste, removal of un-
10 safe buildings and debris of the Department of the Air
11 Force, or for similar purposes, transfer the funds made
12 available by this appropriation to other appropriations
13 made available to the Department of the Air Force, to be
14 merged with and to be available for the same purposes
15 and for the same time period as the appropriations to
16 which transferred: *Provided further*, That upon a deter-
17 mination that all or part of the funds transferred from
18 this appropriation are not necessary for the purposes pro-
19 vided herein, such amounts may be transferred back to
20 this appropriation.

21 ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

22 (INCLUDING TRANSFER OF FUNDS)

23 For the Department of Defense, \$28,167,000, to re-
24 main available until transferred: *Provided*, That the Sec-
25 retary of Defense shall, upon determining that such funds

1 are required for environmental restoration, reduction and
2 recycling of hazardous waste, removal of unsafe buildings
3 and debris of the Department of Defense, or for similar
4 purposes, transfer the funds made available by this appro-
5 priation to other appropriations made available to the De-
6 partment of Defense, to be merged with and to be avail-
7 able for the same purposes and for the same time period
8 as the appropriations to which transferred: *Provided fur-*
9 *ther*, That upon a determination that all or part of the
10 funds transferred from this appropriation are not nec-
11 essary for the purposes provided herein, such amounts
12 may be transferred back to this appropriation.

13 ENVIRONMENTAL RESTORATION, FORMERLY USED
14 DEFENSE SITES
15 (INCLUDING TRANSFER OF FUNDS)

16 For the Department of the Army, \$256,921,000, to
17 remain available until transferred: *Provided*, That the Sec-
18 retary of the Army shall, upon determining that such
19 funds are required for environmental restoration, reduc-
20 tion and recycling of hazardous waste, removal of unsafe
21 buildings and debris at sites formerly used by the Depart-
22 ment of Defense, transfer the funds made available by this
23 appropriation to other appropriations made available to
24 the Department of the Army, to be merged with and to
25 be available for the same purposes and for the same time

1 period as the appropriations to which transferred: *Pro-*
2 *vided further*, That upon a determination that all or part
3 of the funds transferred from this appropriation are not
4 necessary for the purposes provided herein, such amounts
5 may be transferred back to this appropriation.

6 OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

7 For expenses relating to the Overseas Humanitarian,
8 Disaster, and Civic Aid programs of the Department of
9 Defense (consisting of the programs provided under sec-
10 tions 401, 402, 404, 2557, and 2561 of title 10, United
11 States Code), \$61,546,000, to remain available until Sep-
12 tember 30, 2007.

13 FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

14 For assistance to the republics of the former Soviet
15 Union, including assistance provided by contract or by
16 grants, for facilitating the elimination and the safe and
17 secure transportation and storage of nuclear, chemical and
18 other weapons; for establishing programs to prevent the
19 proliferation of weapons, weapons components, and weap-
20 on-related technology and expertise; for programs relating
21 to the training and support of defense and military per-
22 sonnel for demilitarization and protection of weapons,
23 weapons components and weapons technology and exper-
24 tise, and for defense and military contacts, \$415,549,000,
25 to remain available until September 30, 2008: *Provided,*

1 That of the amounts provided under this heading,
2 \$15,000,000 shall be available only to support the disman-
3 tling and disposal of nuclear submarines, submarine reac-
4 tor components, and security enhancements for transport
5 and storage of nuclear warheads in the Russian Far East.

6 TITLE III

7 PROCUREMENT

8 AIRCRAFT PROCUREMENT, ARMY

9 For construction, procurement, production, modifica-
10 tion, and modernization of aircraft, equipment, including
11 ordnance, ground handling equipment, spare parts, and
12 accessories therefor; specialized equipment and training
13 devices; expansion of public and private plants, including
14 the land necessary therefor, for the foregoing purposes,
15 and such lands and interests therein, may be acquired,
16 and construction prosecuted thereon prior to approval of
17 title; and procurement and installation of equipment, ap-
18 pliances, and machine tools in public and private plants;
19 reserve plant and Government and contractor-owned
20 equipment layaway; and other expenses necessary for the
21 foregoing purposes, \$2,653,280,000, to remain available
22 for obligation until September 30, 2008: *Provided*, That
23 \$75,000,000 of the funds provided in this paragraph are
24 available only for the purpose of acquiring four (4) HH-
25 60L medical evacuation variant Blackhawk helicopters for

1 the Army Reserve: *Provided further*, That three (3) UH-
2 60 Blackhawk helicopters in addition to those referred to
3 in the preceding proviso shall be available only for the
4 Army Reserve.

5 MISSILE PROCUREMENT, ARMY

6 For construction, procurement, production, modifica-
7 tion, and modernization of missiles, equipment, including
8 ordnance, ground handling equipment, spare parts, and
9 accessories therefor; specialized equipment and training
10 devices; expansion of public and private plants, including
11 the land necessary therefor, for the foregoing purposes,
12 and such lands and interests therein, may be acquired,
13 and construction prosecuted thereon prior to approval of
14 title; and procurement and installation of equipment, ap-
15 pliances, and machine tools in public and private plants;
16 reserve plant and Government and contractor-owned
17 equipment layaway; and other expenses necessary for the
18 foregoing purposes, \$1,208,919,000, to remain available
19 for obligation until September 30, 2008.

20 PROCUREMENT OF WEAPONS AND TRACKED COMBAT

21 VEHICLES, ARMY

22 For construction, procurement, production, and
23 modification of weapons and tracked combat vehicles,
24 equipment, including ordnance, spare parts, and acces-
25 sories therefor; specialized equipment and training devices;

1 expansion of public and private plants, including the land
2 necessary therefor, for the foregoing purposes, and such
3 lands and interests therein, may be acquired, and con-
4 struction prosecuted thereon prior to approval of title; and
5 procurement and installation of equipment, appliances,
6 and machine tools in public and private plants; reserve
7 plant and Government and contractor-owned equipment
8 layaway; and other expenses necessary for the foregoing
9 purposes, \$1,391,615,000, to remain available for obliga-
10 tion until September 30, 2008.

11 PROCUREMENT OF AMMUNITION, ARMY

12 For construction, procurement, production, and
13 modification of ammunition, and accessories therefor; spe-
14 cialized equipment and training devices; expansion of pub-
15 lic and private plants, including ammunition facilities, au-
16 thorized by section 2854 of title 10, United States Code,
17 and the land necessary therefor, for the foregoing pur-
18 poses, and such lands and interests therein, may be ac-
19 quired, and construction prosecuted thereon prior to ap-
20 proval of title; and procurement and installation of equip-
21 ment, appliances, and machine tools in public and private
22 plants; reserve plant and Government and contractor-
23 owned equipment layaway; and other expenses necessary
24 for the foregoing purposes, \$1,733,020,000, to remain
25 available for obligation until September 30, 2008.

1 OTHER PROCUREMENT, ARMY

2 For construction, procurement, production, and
3 modification of vehicles, including tactical, support, and
4 non-tracked combat vehicles; the purchase of passenger
5 motor vehicles for replacement only; and the purchase of
6 14 vehicles required for physical security of personnel, not-
7 withstanding price limitations applicable to passenger ve-
8 hicles but not to exceed \$255,000 per vehicle; communica-
9 tions and electronic equipment; other support equipment;
10 spare parts, ordnance, and accessories therefor; specialized
11 equipment and training devices; expansion of public and
12 private plants, including the land necessary therefor, for
13 the foregoing purposes, and such lands and interests
14 therein, may be acquired, and construction prosecuted
15 thereon prior to approval of title; and procurement and
16 installation of equipment, appliances, and machine tools
17 in public and private plants; reserve plant and Govern-
18 ment and contractor-owned equipment layaway; and other
19 expenses necessary for the foregoing purposes,
20 \$4,594,031,000, to remain available for obligation until
21 September 30, 2008.

22 AIRCRAFT PROCUREMENT, NAVY

23 For construction, procurement, production, modifica-
24 tion, and modernization of aircraft, equipment, including
25 ordnance, spare parts, and accessories therefor; specialized

1 equipment; expansion of public and private plants, includ-
2 ing the land necessary therefor, and such lands and inter-
3 ests therein, may be acquired, and construction prosecuted
4 thereon prior to approval of title; and procurement and
5 installation of equipment, appliances, and machine tools
6 in public and private plants; reserve plant and Govern-
7 ment and contractor-owned equipment layaway,
8 \$9,774,749,000, to remain available for obligation until
9 September 30, 2008.

10 WEAPONS PROCUREMENT, NAVY

11 For construction, procurement, production, modifica-
12 tion, and modernization of missiles, torpedoes, other weap-
13 ons, and related support equipment including spare parts,
14 and accessories therefor; expansion of public and private
15 plants, including the land necessary therefor, and such
16 lands and interests therein, may be acquired, and con-
17 struction prosecuted thereon prior to approval of title; and
18 procurement and installation of equipment, appliances,
19 and machine tools in public and private plants; reserve
20 plant and Government and contractor-owned equipment
21 layaway, \$2,659,978,000, to remain available for obliga-
22 tion until September 30, 2008.

1 PROCUREMENT OF AMMUNITION, NAVY AND MARINE
2 CORPS

3 For construction, procurement, production, and
4 modification of ammunition, and accessories therefor; spe-
5 cialized equipment and training devices; expansion of pub-
6 lic and private plants, including ammunition facilities, au-
7 thorized by section 2854 of title 10, United States Code,
8 and the land necessary therefor, for the foregoing pur-
9 poses, and such lands and interests therein, may be ac-
10 quired, and construction prosecuted thereon prior to ap-
11 proval of title; and procurement and installation of equip-
12 ment, appliances, and machine tools in public and private
13 plants; reserve plant and Government and contractor-
14 owned equipment layaway; and other expenses necessary
15 for the foregoing purposes, \$851,841,000, to remain avail-
16 able for obligation until September 30, 2008.

17 SHIPBUILDING AND CONVERSION, NAVY

18 For expenses necessary for the construction, acquisi-
19 tion, or conversion of vessels as authorized by law, includ-
20 ing armor and armament thereof, plant equipment, appli-
21 ances, and machine tools and installation thereof in public
22 and private plants; reserve plant and Government and con-
23 tractor-owned equipment layaway; procurement of critical,
24 long leadtime components and designs for vessels to be
25 constructed or converted in the future; and expansion of

1 public and private plants, including land necessary there-
2 for, and such lands and interests therein, may be acquired,
3 and construction prosecuted thereon prior to approval of
4 title, as follows:

5 Carrier Replacement Program (AP),
6 \$626,913,000;
7 NSSN, \$1,637,698,000;
8 NSSN (AP), \$763,786,000;
9 SSGN, \$286,516,000;
10 CVN Refuelings, \$1,318,563,000;
11 CVN Refuelings (AP), \$20,000,000;
12 SSBN Submarine Refuelings, \$230,193,000;
13 SSBN Submarine Refuelings (AP),
14 \$62,248,000;
15 DD(X) (AP), \$715,992,000;
16 DDG-51 Destroyer, \$150,000,000;
17 DDG-51 Destroyer Modernization,
18 \$50,000,000;
19 LCS, \$440,000,000;
20 LHD-8, \$197,769,000;
21 LPD-17, \$1,344,741,000;
22 LHA-R, \$150,447,000;
23 LCAC Landing Craft Air Cushion,
24 \$100,000,000;
25 Prior year shipbuilding costs, \$517,523,000;

1 Service Craft, \$45,455,000; and

2 For outfitting, post delivery, conversions, and
3 first destination transportation, \$369,387,000.

4 In all: \$9,027,231,000, to remain available for obliga-
5 tion until September 30, 2010: *Provided*, That additional
6 obligations may be incurred after September 30, 2010, for
7 engineering services, tests, evaluations, and other such
8 budgeted work that must be performed in the final stage
9 of ship construction: *Provided further*, That none of the
10 funds provided under this heading for the construction or
11 conversion of any naval vessel to be constructed in ship-
12 yards in the United States shall be expended in foreign
13 facilities for the construction of major components of such
14 vessel: *Provided further*, That none of the funds provided
15 under this heading shall be used for the construction of
16 any naval vessel in foreign shipyards.

17 OTHER PROCUREMENT, NAVY

18 For procurement, production, and modernization of
19 support equipment and materials not otherwise provided
20 for, Navy ordnance (except ordnance for new aircraft, new
21 ships, and ships authorized for conversion); the purchase
22 of passenger motor vehicles for replacement only, and the
23 purchase of 9 vehicles required for physical security of
24 personnel, notwithstanding price limitations applicable to
25 passenger vehicles but not to exceed \$255,000 per vehicle;

1 expansion of public and private plants, including the land
2 necessary therefor, and such lands and interests therein,
3 may be acquired, and construction prosecuted thereon
4 prior to approval of title; and procurement and installation
5 of equipment, appliances, and machine tools in public and
6 private plants; reserve plant and Government and con-
7 tractor-owned equipment layaway, \$5,444,294,000, to re-
8 main available for obligation until September 30, 2008.

9 PROCUREMENT, MARINE CORPS

10 For expenses necessary for the procurement, manu-
11 facture, and modification of missiles, armament, military
12 equipment, spare parts, and accessories therefor; plant
13 equipment, appliances, and machine tools, and installation
14 thereof in public and private plants; reserve plant and
15 Government and contractor-owned equipment layaway; ve-
16 hicles for the Marine Corps, including the purchase of pas-
17 senger motor vehicles for replacement only; and expansion
18 of public and private plants, including land necessary
19 therefor, and such lands and interests therein, may be ac-
20 quired, and construction prosecuted thereon prior to ap-
21 proval of title, \$1,398,955,000, to remain available for ob-
22 ligation until September 30, 2008.

23 AIRCRAFT PROCUREMENT, AIR FORCE

24 For construction, procurement, and modification of
25 aircraft and equipment, including armor and armament,

1 specialized ground handling equipment, and training de-
2 vices, spare parts, and accessories therefor; specialized
3 equipment; expansion of public and private plants, Gov-
4 ernment-owned equipment and installation thereof in such
5 plants, erection of structures, and acquisition of land, for
6 the foregoing purposes, and such lands and interests
7 therein, may be acquired, and construction prosecuted
8 thereon prior to approval of title; reserve plant and Gov-
9 ernment and contractor-owned equipment layaway; and
10 other expenses necessary for the foregoing purposes in-
11 cluding rents and transportation of things,
12 \$12,737,215,000, to remain available for obligation until
13 September 30, 2008.

14 MISSILE PROCUREMENT, AIR FORCE

15 For construction, procurement, and modification of
16 missiles, spacecraft, rockets, and related equipment, in-
17 cluding spare parts and accessories therefor, ground han-
18 dling equipment, and training devices; expansion of public
19 and private plants, Government-owned equipment and in-
20 stallation thereof in such plants, erection of structures,
21 and acquisition of land, for the foregoing purposes, and
22 such lands and interests therein, may be acquired, and
23 construction prosecuted thereon prior to approval of title;
24 reserve plant and Government and contractor-owned
25 equipment layaway; and other expenses necessary for the

1 foregoing purposes including rents and transportation of
2 things, \$5,174,474,000, to remain available for obligation
3 until September 30, 2008.

4 PROCUREMENT OF AMMUNITION, AIR FORCE

5 For construction, procurement, production, and
6 modification of ammunition, and accessories therefor; spe-
7 cialized equipment and training devices; expansion of pub-
8 lic and private plants, including ammunition facilities, au-
9 thorized by section 2854 of title 10, United States Code,
10 and the land necessary therefor, for the foregoing pur-
11 poses, and such lands and interests therein, may be ac-
12 quired, and construction prosecuted thereon prior to ap-
13 proval of title; and procurement and installation of equip-
14 ment, appliances, and machine tools in public and private
15 plants; reserve plant and Government and contractor-
16 owned equipment layaway; and other expenses necessary
17 for the foregoing purposes, \$1,016,887,000, to remain
18 available for obligation until September 30, 2008.

19 OTHER PROCUREMENT, AIR FORCE

20 For procurement and modification of equipment (in-
21 cluding ground guidance and electronic control equipment,
22 and ground electronic and communication equipment),
23 and supplies, materials, and spare parts therefor, not oth-
24 erwise provided for; the purchase of passenger motor vehi-
25 cles for replacement only, and the purchase of 2 vehicles

1 required for physical security of personnel, notwith-
2 standing price limitations applicable to passenger vehicles
3 but not to exceed \$255,000 per vehicle; lease of passenger
4 motor vehicles; and expansion of public and private plants,
5 Government-owned equipment and installation thereof in
6 such plants, erection of structures, and acquisition of land,
7 for the foregoing purposes, and such lands and interests
8 therein, may be acquired, and construction prosecuted
9 thereon, prior to approval of title; reserve plant and Gov-
10 ernment and contractor-owned equipment layaway,
11 \$14,060,714,000, to remain available for obligation until
12 September 30, 2008.

13 PROCUREMENT, DEFENSE-WIDE

14 For expenses of activities and agencies of the Depart-
15 ment of Defense (other than the military departments)
16 necessary for procurement, production, and modification
17 of equipment, supplies, materials, and spare parts there-
18 for, not otherwise provided for; the purchase of passenger
19 motor vehicles for replacement only, and the purchase of
20 5 vehicles required for physical security of personnel, not-
21 withstanding prior limitations applicable to passenger ve-
22 hicles but not to exceed \$255,000 per vehicle; expansion
23 of public and private plants, equipment, and installation
24 thereof in such plants, erection of structures, and acquisi-
25 tion of land for the foregoing purposes, and such lands

1 and interests therein, may be acquired, and construction
2 prosecuted thereon prior to approval of title; reserve plant
3 and Government and contractor-owned equipment lay-
4 away, \$2,573,964,000, to remain available for obligation
5 until September 30, 2008.

6 NATIONAL GUARD AND RESERVE EQUIPMENT

7 For procurement of aircraft, missiles, tracked combat
8 vehicles, ammunition, other weapons, and other procure-
9 ment for the reserve components of the Armed Forces,
10 \$180,000,000, to remain available for obligation until Sep-
11 tember 30, 2008: *Provided*, That the Chiefs of the Reserve
12 and National Guard components shall, not later than 30
13 days after the enactment of this Act, individually submit
14 to the congressional defense committees the modernization
15 priority assessment for their respective Reserve or Na-
16 tional Guard component.

17 DEFENSE PRODUCTION ACT PURCHASES

18 For activities by the Department of Defense pursuant
19 to sections 108, 301, 302, and 303 of the Defense Produc-
20 tion Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and
21 2093), \$58,248,000, to remain available until expended.

1 TITLE IV
2 RESEARCH; DEVELOPMENT, TEST AND
3 EVALUATION
4 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
5 ARMY

6 For expenses necessary for basic and applied sci-
7 entific research, development, test and evaluation, includ-
8 ing maintenance, rehabilitation, lease, and operation of fa-
9 cilities and equipment, \$11,172,397,000, to remain avail-
10 able for obligation until September 30, 2007.

11 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
12 NAVY

13 For expenses necessary for basic and applied sci-
14 entific research, development, test and evaluation, includ-
15 ing maintenance, rehabilitation, lease, and operation of fa-
16 cilities and equipment, \$18,993,135,000, to remain avail-
17 able for obligation until September 30, 2007: *Provided*,
18 That funds appropriated in this paragraph which are
19 available for the V-22 may be used to meet unique oper-
20 ational requirements of the Special Operations Forces:
21 *Provided further*, That funds appropriated in this para-
22 graph shall be available for the Cobra Judy program.

1 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
2 AIR FORCE

3 For expenses necessary for basic and applied sci-
4 entific research, development, test and evaluation, includ-
5 ing maintenance, rehabilitation, lease, and operation of fa-
6 cilities and equipment, \$21,999,649,000, to remain avail-
7 able for obligation until September 30, 2007.

8 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
9 DEFENSE-WIDE

10 For expenses of activities and agencies of the Depart-
11 ment of Defense (other than the military departments),
12 necessary for basic and applied scientific research, devel-
13 opment, test and evaluation; advanced research projects
14 as may be designated and determined by the Secretary
15 of Defense, pursuant to law; maintenance, rehabilitation,
16 lease, and operation of facilities and equipment,
17 \$19,798,599,000, to remain available for obligation until
18 September 30, 2007.

19 OPERATIONAL TEST AND EVALUATION, DEFENSE

20 For expenses, not otherwise provided for, necessary
21 for the independent activities of the Director, Operational
22 Test and Evaluation, in the direction and supervision of
23 operational test and evaluation, including initial oper-
24 ational test and evaluation which is conducted prior to,
25 and in support of, production decisions; joint operational

1 testing and evaluation; and administrative expenses in
2 connection therewith, \$168,458,000, to remain available
3 for obligation until September 30, 2007.

4 TITLE V

5 REVOLVING AND MANAGEMENT FUNDS

6 DEFENSE WORKING CAPITAL FUNDS

7 For the Defense Working Capital Funds,
8 \$1,154,940,000.

9 NATIONAL DEFENSE SEALIFT FUND

10 For National Defense Sealift Fund programs,
11 projects, and activities, and for expenses of the National
12 Defense Reserve Fleet, as established by section 11 of the
13 Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744),
14 and for the necessary expenses to maintain and preserve
15 a U.S.-flag merchant fleet to serve the national security
16 needs of the United States, \$1,089,056,000, to remain
17 available until expended: *Provided*, That none of the funds
18 provided in this paragraph shall be used to award a new
19 contract that provides for the acquisition of any of the
20 following major components unless such components are
21 manufactured in the United States: auxiliary equipment,
22 including pumps, for all shipboard services; propulsion
23 system components (that is, engines, reduction gears, and
24 propellers); shipboard cranes; and spreaders for shipboard
25 cranes: *Provided further*, That the exercise of an option

1 in a contract awarded through the obligation of previously
2 appropriated funds shall not be considered to be the award
3 of a new contract: *Provided further*, That the Secretary
4 of the military department responsible for such procure-
5 ment may waive the restrictions in the first proviso on
6 a case-by-case basis by certifying in writing to the Com-
7 mittees on Appropriations of the House of Representatives
8 and the Senate that adequate domestic supplies are not
9 available to meet Department of Defense requirements on
10 a timely basis and that such an acquisition must be made
11 in order to acquire capability for national security pur-
12 poses.

13 TITLE VI

14 OTHER DEPARTMENT OF DEFENSE PROGRAMS

15 DEFENSE HEALTH PROGRAM

16 For expenses, not otherwise provided for, for medical
17 and health care programs of the Department of Defense,
18 as authorized by law, \$20,221,212,000, of which
19 \$19,299,787,000 shall be for Operation and maintenance,
20 of which not to exceed 2 percent shall remain available
21 until September 30, 2007, and of which up to
22 \$10,212,427,000 may be available for contracts entered
23 into under the TRICARE program; of which
24 \$379,119,000, to remain available for obligation until Sep-
25 tember 30, 2008, shall be for Procurement; and of which

1 \$542,306,000, to remain available for obligation until Sep-
2 tember 30, 2007, shall be for Research, development, test
3 and evaluation: *Provided*, That notwithstanding any other
4 provision of law, of the amount made available under this
5 heading for Research, development, test and evaluation,
6 not less than \$5,300,000 shall be available for HIV pre-
7 vention educational activities undertaken in connection
8 with U.S. military training, exercises, and humanitarian
9 assistance activities conducted primarily in African na-
10 tions.

11 CHEMICAL AGENTS AND MUNITIONS DESTRUCTION,
12 ARMY

13 For expenses, not otherwise provided for, necessary
14 for the destruction of the United States stockpile of lethal
15 chemical agents and munitions, to include construction of
16 facilities, in accordance with the provisions of section 1412
17 of the Department of Defense Authorization Act, 1986
18 (50 U.S.C. 1521), and for the destruction of other chem-
19 ical warfare materials that are not in the chemical weapon
20 stockpile, \$1,400,827,000, of which \$1,216,514,000 shall
21 be for Operation and maintenance; \$116,527,000 shall be
22 for Procurement to remain available until September 30,
23 2008; \$67,786,000 shall be for Research, development,
24 test and evaluation, of which \$53,026,000 shall only be
25 for the Assembled Chemical Weapons Alternatives

1 (ACWA) program, to remain available until September 30,
2 2007; and no less than \$119,300,000 may be for the
3 Chemical Stockpile Emergency Preparedness Program, of
4 which \$36,800,000 shall be for activities on military in-
5 stallations and \$82,500,000 shall be to assist State and
6 local governments.

7 DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES,
8 DEFENSE

9 (INCLUDING TRANSFER OF FUNDS)

10 For drug interdiction and counter-drug activities of
11 the Department of Defense, for transfer to appropriations
12 available to the Department of Defense for military per-
13 sonnel of the reserve components serving under the provi-
14 sions of title 10 and title 32, United States Code; for Op-
15 eration and maintenance; for Procurement; and for Re-
16 search, development, test and evaluation, \$917,651,000:
17 *Provided*, That the funds appropriated under this heading
18 shall be available for obligation for the same time period
19 and for the same purpose as the appropriation to which
20 transferred: *Provided further*, That upon a determination
21 that all or part of the funds transferred from this appro-
22 priation are not necessary for the purposes provided here-
23 in, such amounts may be transferred back to this appro-
24 priation: *Provided further*, That the transfer authority pro-

1 vided under this heading is in addition to any other trans-
2 fer authority contained elsewhere in this Act.

3 OFFICE OF THE INSPECTOR GENERAL

4 For expenses and activities of the Office of the In-
5 spector General in carrying out the provisions of the In-
6 spector General Act of 1978, as amended, \$209,687,000,
7 of which \$208,687,000 shall be for Operation and mainte-
8 nance, of which not to exceed \$700,000 is available for
9 emergencies and extraordinary expenses to be expended on
10 the approval or authority of the Inspector General, and
11 payments may be made on the Inspector General's certifi-
12 cate of necessity for confidential military purposes; and
13 of which \$1,000,000, to remain available until September
14 30, 2008, shall be for Procurement.

15 TITLE VII

16 RELATED AGENCIES

17 CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
18 DISABILITY SYSTEM FUND

19 For payment to the Central Intelligence Agency Re-
20 tirement and Disability System Fund, to maintain the
21 proper funding level for continuing the operation of the
22 Central Intelligence Agency Retirement and Disability
23 System, \$244,600,000.

1 INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT
2 (INCLUDING TRANSFER OF FUNDS)

3 For necessary expenses of the Intelligence Commu-
4 nity Management Account, \$422,344,000, of which
5 \$27,454,000 for the Advanced Research and Development
6 Committee shall remain available until September 30,
7 2007: *Provided*, That of the funds appropriated under this
8 heading, \$39,000,000 shall be transferred to the Depart-
9 ment of Justice for the National Drug Intelligence Center
10 to support the Department of Defense's counter-drug in-
11 telligence responsibilities, and of the said amount,
12 \$1,500,000 for Procurement shall remain available until
13 September 30, 2008 and \$1,000,000 for Research, devel-
14 opment, test and evaluation shall remain available until
15 September 30, 2007: *Provided further*, That the National
16 Drug Intelligence Center shall maintain the personnel and
17 technical resources to provide timely support to law en-
18 forcement authorities and the intelligence community by
19 conducting document and computer exploitation of mate-
20 rials collected in Federal, State, and local law enforcement
21 activity associated with counter-drug, counter-terrorism,
22 and national security investigations and operations.

1

TITLE VIII

2

GENERAL PROVISIONS

3

SEC. 8001. No part of any appropriation contained
4 in this Act shall be used for publicity or propaganda pur-
5 poses not authorized by the Congress.

6

SEC. 8002. During the current fiscal year, provisions
7 of law prohibiting the payment of compensation to, or em-
8 ployment of, any person not a citizen of the United States
9 shall not apply to personnel of the Department of Defense:
10 *Provided*, That salary increases granted to direct and indi-
11 rect hire foreign national employees of the Department of
12 Defense funded by this Act shall not be at a rate in excess
13 of the percentage increase authorized by law for civilian
14 employees of the Department of Defense whose pay is
15 computed under the provisions of section 5332 of title 5,
16 United States Code, or at a rate in excess of the percent-
17 age increase provided by the appropriate host nation to
18 its own employees, whichever is higher: *Provided further*,
19 That this section shall not apply to Department of De-
20 fense foreign service national employees serving at United
21 States diplomatic missions whose pay is set by the Depart-
22 ment of State under the Foreign Service Act of 1980: *Pro-*
23 *vided further*, That the limitations of this provision shall
24 not apply to foreign national employees of the Department
25 of Defense in the Republic of Turkey.

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

4 SEC. 8004. No more than 20 percent of the appro-
5 priations in this Act which are limited for obligation dur-
6 ing the current fiscal year shall be obligated during the
7 last 2 months of the fiscal year: *Provided*, That this sec-
8 tion shall not apply to obligations for support of active
9 duty training of reserve components or summer camp
10 training of the Reserve Officers' Training Corps.

11 (TRANSFER OF FUNDS)

12 SEC. 8005. Upon determination by the Secretary of
13 Defense that such action is necessary in the national inter-
14 est, he may, with the approval of the Office of Manage-
15 ment and Budget, transfer not to exceed \$3,750,000,000
16 of working capital funds of the Department of Defense
17 or funds made available in this Act to the Department
18 of Defense for military functions (except military con-
19 struction) between such appropriations or funds or any
20 subdivision thereof, to be merged with and to be available
21 for the same purposes, and for the same time period, as
22 the appropriation or fund to which transferred: *Provided*,
23 That such authority to transfer may not be used unless
24 for higher priority items, based on unforeseen military re-
25 quirements, than those for which originally appropriated
26 and in no case where the item for which funds are re-

1 requested has been denied by the Congress: *Provided further,*
2 That the Secretary of Defense shall notify the Congress
3 promptly of all transfers made pursuant to this authority
4 or any other authority in this Act: *Provided further,* That
5 no part of the funds in this Act shall be available to pre-
6 pare or present a request to the Committees on Appropria-
7 tions for reprogramming of funds, unless for higher pri-
8 ority items, based on unforeseen military requirements,
9 than those for which originally appropriated and in no
10 case where the item for which reprogramming is requested
11 has been denied by the Congress: *Provided further,* That
12 a request for multiple reprogrammings of funds using au-
13 thority provided in this section must be made prior to
14 June 30, 2006: *Provided further,* That transfers among
15 military personnel appropriations shall not be taken into
16 account for purposes of the limitation on the amount of
17 funds that may be transferred under this section.

18 (TRANSFER OF FUNDS)

19 SEC. 8006. During the current fiscal year, cash bal-
20 ances in working capital funds of the Department of De-
21 fense established pursuant to section 2208 of title 10,
22 United States Code, may be maintained in only such
23 amounts as are necessary at any time for cash disburse-
24 ments to be made from such funds: *Provided,* That trans-
25 fers may be made between such funds: *Provided further,*
26 That transfers may be made between working capital

1 funds and the "Foreign Currency Fluctuations, Defense"
2 appropriation and the "Operation and Maintenance" ap-
3 propriation accounts in such amounts as may be deter-
4 mined by the Secretary of Defense, with the approval of
5 the Office of Management and Budget, except that such
6 transfers may not be made unless the Secretary of Defense
7 has notified the Congress of the proposed transfer. Except
8 in amounts equal to the amounts appropriated to working
9 capital funds in this Act, no obligations may be made
10 against a working capital fund to procure or increase the
11 value of war reserve material inventory, unless the Sec-
12 retary of Defense has notified the Congress prior to any
13 such obligation.

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

18 SEC. 8008. None of the funds provided in this Act
19 shall be available to initiate: (1) a multiyear contract that
20 employs economic order quantity procurement in excess of
21 \$20,000,000 in any 1 year of the contract or that includes
22 an unfunded contingent liability in excess of \$20,000,000;
23 or (2) a contract for advance procurement leading to a
24 multiyear contract that employs economic order quantity
25 procurement in excess of \$20,000,000 in any 1 year, un-

1 less the congressional defense committees have been noti-
2 fied at least 30 days in advance of the proposed contract
3 award: *Provided*, That no part of any appropriation con-
4 tained in this Act shall be available to initiate a multiyear
5 contract for which the economic order quantity advance
6 procurement is not funded at least to the limits of the
7 Government's liability: *Provided further*, That no part of
8 any appropriation contained in this Act shall be available
9 to initiate multiyear procurement contracts for any sys-
10 tems or component thereof if the value of the multiyear
11 contract would exceed \$500,000,000 unless specifically
12 provided in this Act: *Provided further*, That no multiyear
13 procurement contract can be terminated without 10-day
14 prior notification to the congressional defense committees:
15 *Provided further*, That the execution of multiyear author-
16 ity shall require the use of a present value analysis to de-
17 termine lowest cost compared to an annual procurement:
18 *Provided further*, That none of the funds provided in this
19 Act may be used for a multiyear contract executed after
20 the date of the enactment of this Act unless in the case
21 of any such contract—

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

1 (2) cancellation provisions in the contract do
2 not include consideration of recurring manufacturing
3 costs of the contractor associated with the produc-
4 tion of unfunded units to be delivered under the con-
5 tract;

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

9 (4) the contract does not provide for a price ad-
10 justment based on a failure to award a follow-on
11 contract.

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

14 UH-60/MH-60 Helicopters;

15 C-17 Globemaster;

16 Apache Block II Conversion; and

17 Modernized Target Acquisition Designation
18 Sight/Pilot Night Vision Sensor (MTADS/PNVS).

19 SEC. 8009. Within the funds appropriated for the op-
20 eration and maintenance of the Armed Forces, funds are
21 hereby appropriated pursuant to section 401 of title 10,
22 United States Code, for humanitarian and civic assistance
23 costs under chapter 20 of title 10, United States Code.
24 Such funds may also be obligated for humanitarian and
25 civic assistance costs incidental to authorized operations

1 and pursuant to authority granted in section 401 of chap-
2 ter 20 of title 10, United States Code, and these obliga-
3 tions shall be reported as required by section 401(d) of
4 title 10, United States Code: *Provided*, That funds avail-
5 able for operation and maintenance shall be available for
6 providing humanitarian and similar assistance by using
7 Civic Action Teams in the Trust Territories of the Pacific
8 Islands and freely associated states of Micronesia, pursu-
9 ant to the Compact of Free Association as authorized by
10 Public Law 99-239: *Provided further*, That upon a deter-
11 mination by the Secretary of the Army that such action
12 is beneficial for graduate medical education programs con-
13 ducted at Army medical facilities located in Hawaii, the
14 Secretary of the Army may authorize the provision of med-
15 ical services at such facilities and transportation to such
16 facilities, on a nonreimbursable basis, for civilian patients
17 from American Samoa, the Commonwealth of the North-
18 ern Mariana Islands, the Marshall Islands, the Federated
19 States of Micronesia, Palau, and Guam.

20 SEC. 8010. (a) During fiscal year 2006, the civilian
21 personnel of the Department of Defense may not be man-
22 aged on the basis of any end-strength, and the manage-
23 ment of such personnel during that fiscal year shall not
24 be subject to any constraint or limitation (known as an

1 end-strength) on the number of such personnel who may
2 be employed on the last day of such fiscal year.

3 (b) The fiscal year 2007 budget request for the De-
4 partment of Defense as well as all justification material
5 and other documentation supporting the fiscal year 2007
6 Department of Defense budget request shall be prepared
7 and submitted to the Congress as if subsections (a) and
8 (b) of this provision were effective with regard to fiscal
9 year 2007.

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

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

16 SEC. 8012. None of the funds made available by this
17 Act shall be used in any way, directly or indirectly, to in-
18 fluence congressional action on any legislation or appro-
19 priation matters pending before the Congress.

20 SEC. 8013. None of the funds appropriated by this
21 Act shall be available for the basic pay and allowances of
22 any member of the Army participating as a full-time stu-
23 dent and receiving benefits paid by the Secretary of Vet-
24 erans Affairs from the Department of Defense Education
25 Benefits Fund when time spent as a full-time student is

1 credited toward completion of a service commitment: *Pro-*
2 *vided*, That this subsection shall not apply to those mem-
3 bers who have reenlisted with this option prior to October
4 1, 1987: *Provided further*, That this subsection applies
5 only to active components of the Army.

6 SEC. 8014. (a) LIMITATION ON CONVERSION TO
7 CONTRACTOR PERFORMANCE.—None of the funds appro-
8 priated by this Act shall be available to convert to con-
9 tractor performance an activity or function of the Depart-
10 ment of Defense that, on or after the date of the enact-
11 ment of this Act, is performed by more than 10 Depart-
12 ment of Defense civilian employees unless—

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

17 (2) the Competitive Sourcing Official deter-
18 mines that, over all performance periods stated in
19 the solicitation of offers for performance of the ac-
20 tivity or function, the cost of performance of the ac-
21 tivity or function by a contractor would be less costly
22 to the Department of Defense by an amount that
23 equals or exceeds the lesser of—

24 (A) 10 percent of the most efficient organi-
25 zation's personnel-related costs for performance

1 of that activity or function by Federal employ-
2 ees; or

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

4 (3) the contractor does not receive an advan-
5 tage for a proposal that would reduce costs for the
6 Department of Defense by—

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

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

18 (b) EXCEPTIONS.—

19 (1) The Department of Defense, without regard
20 to subsection (a) of this section or subsections (a),
21 (b), or (c) of section 2461 of title 10, United States
22 Code, and notwithstanding any administrative regu-
23 lation, requirement, or policy to the contrary shall
24 have full authority to enter into a contract for the

1 performance of any commercial or industrial type
2 function of the Department of Defense that—

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

6 (B) is planned to be converted to perform-
7 ance by a qualified nonprofit agency for the
8 blind or by a qualified nonprofit agency for
9 other severely handicapped individuals in ac-
10 cordance with that Act; or

11 (C) is planned to be converted to perform-
12 ance by a qualified firm under at least 51 per-
13 cent ownership by an Indian tribe, as defined in
14 section 4(e) of the Indian Self-Determination
15 and Education Assistance Act (25 U.S.C.
16 450b(e)), or a Native Hawaiian Organization,
17 as defined in section 8(a)(15) of the Small
18 Business Act (15 U.S.C. 637(a)(15)).

19 (2) This section shall not apply to depot con-
20 tracts or contracts for depot maintenance as pro-
21 vided in sections 2469 and 2474 of title 10, United
22 States Code.

23 (c) TREATMENT OF CONVERSION.—The conversion
24 of any activity or function of the Department of Defense
25 under the authority provided by this section shall be cred-

1 ited toward any competitive or outsourcing goal, target,
2 or measurement that may be established by statute, regu-
3 lation, or policy and is deemed to be awarded under the
4 authority of, and in compliance with, subsection (h) of sec-
5 tion 2304 of title 10, United States Code, for the competi-
6 tion or outsourcing of commercial activities.

7 (TRANSFER OF FUNDS)

8 SEC. 8015. Funds appropriated in title III of this Act
9 for the Department of Defense Pilot Mentor-Protege Pro-
10 gram may be transferred to any other appropriation con-
11 tained in this Act solely for the purpose of implementing
12 a Mentor-Protege Program developmental assistance
13 agreement pursuant to section 831 of the National De-
14 fense Authorization Act for Fiscal Year 1991 (Public Law
15 101-510; 10 U.S.C. 2302 note), as amended, under the
16 authority of this provision or any other transfer authority
17 contained in this Act.

18 SEC. 8016. None of the funds in this Act may be
19 available for the purchase by the Department of Defense
20 (and its departments and agencies) of welded shipboard
21 anchor and mooring chain 4 inches in diameter and under
22 unless the anchor and mooring chain are manufactured
23 in the United States from components which are substan-
24 tially manufactured in the United States: *Provided*, That
25 for the purpose of this section manufactured will include
26 cutting, heat treating, quality control, testing of chain and

1 welding (including the forging and shot blasting process):
2 *Provided further*, That for the purpose of this section sub-
3 stantially all of the components of anchor and mooring
4 chain shall be considered to be produced or manufactured
5 in the United States if the aggregate cost of the compo-
6 nents produced or manufactured in the United States ex-
7 ceeds the aggregate cost of the components produced or
8 manufactured outside the United States: *Provided further*,
9 That when adequate domestic supplies are not available
10 to meet Department of Defense requirements on a timely
11 basis, the Secretary of the service responsible for the pro-
12 curement may waive this restriction on a case-by-case
13 basis by certifying in writing to the Committees on Appro-
14 priations that such an acquisition must be made in order
15 to acquire capability for national security purposes.

16 SEC. 8017. None of the funds available to the De-
17 partment of Defense may be used to demilitarize or dis-
18 pose of M-1 Carbines, M-1 Garand rifles, M-14 rifles,
19 .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

20 SEC. 8018. None of the funds appropriated by this
21 Act available for the Civilian Health and Medical Program
22 of the Uniformed Services (CHAMPUS) or TRICARE
23 shall be available for the reimbursement of any health care
24 provider for inpatient mental health service for care re-
25 ceived when a patient is referred to a provider of inpatient

1 mental health care or residential treatment care by a med-
2 ical or health care professional having an economic inter-
3 est in the facility to which the patient is referred: *Pro-*
4 *vided*, That this limitation does not apply in the case of
5 inpatient mental health services provided under the pro-
6 gram for persons with disabilities under subsection (d) of
7 section 1079 of title 10, United States Code, provided as
8 partial hospital care, or provided pursuant to a waiver au-
9 thorized by the Secretary of Defense because of medical
10 or psychological circumstances of the patient that are con-
11 firmed by a health professional who is not a Federal em-
12 ployee after a review, pursuant to rules prescribed by the
13 Secretary, which takes into account the appropriate level
14 of care for the patient, the intensity of services required
15 by the patient, and the availability of that care.

16 SEC. 8019. No more than \$500,000 of the funds ap-
17 propriated or made available in this Act shall be used dur-
18 ing a single fiscal year for any single relocation of an orga-
19 nization, unit, activity or function of the Department of
20 Defense into or within the National Capital Region: *Pro-*
21 *vided*, That the Secretary of Defense may waive this re-
22 striction on a case-by-case basis by certifying in writing
23 to the congressional defense committees that such a relo-
24 cation is required in the best interest of the Government.

1 SEC. 8020. In addition to the funds provided else-
2 where in this Act, \$8,000,000 is appropriated only for in-
3 centive payments authorized by section 504 of the Indian
4 Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That
5 a prime contractor or a subcontractor at any tier that
6 makes a subcontract award to any subcontractor or sup-
7 plier as defined in section 1544 of title 25, United States
8 Code or a small business owned and controlled by an indi-
9 vidual or individuals defined under section 4221(9) of title
10 25, United States Code shall be considered a contractor
11 for the purposes of being allowed additional compensation
12 under section 504 of the Indian Financing Act of 1974
13 (25 U.S.C. 1544) whenever the prime contract or sub-
14 contract amount is over \$500,000 and involves the ex-
15 penditure of funds appropriated by an Act making Appro-
16 priations for the Department of Defense with respect to
17 any fiscal year: *Provided further*, That notwithstanding
18 section 430 of title 41, United States Code, this section
19 shall be applicable to any Department of Defense acqui-
20 sition of supplies or services, including any contract and any
21 subcontract at any tier for acquisition of commercial items
22 produced or manufactured, in whole or in part by any sub-
23 contractor or supplier defined in section 1544 of title 25,
24 United States Code or a small business owned and con-
25 trolled by an individual or individuals defined under sec-

1 tion 4221(9) of title 25, United States Code: *Provided fur-*
2 *ther*, That, during the current fiscal year and hereafter,
3 businesses certified as 8(a) by the Small Business Admin-
4 istration pursuant to section 8(a)(15) of Public Law 85-
5 536, as amended, shall have the same status as other pro-
6 gram participants under section 602 of Public Law 100-
7 656, 102 Stat. 3825 (Business Opportunity Development
8 Reform Act of 1988) for purposes of contracting with
9 agencies of the Department of Defense.

10 SEC. 8021. None of the funds appropriated by this
11 Act shall be available to perform any cost study pursuant
12 to the provisions of OMB Circular A-76 if the study being
13 performed exceeds a period of 24 months after initiation
14 of such study with respect to a single function activity or
15 30 months after initiation of such study for a multi-func-
16 tion activity.

17 SEC. 8022. Funds appropriated by this Act for the
18 American Forces Information Service shall not be used for
19 any national or international political or psychological ac-
20 tivities.

21 SEC. 8023. Notwithstanding any other provision of
22 law or regulation, the Secretary of Defense may adjust
23 wage rates for civilian employees hired for certain health
24 care occupations as authorized for the Secretary of Vet-

1 erans Affairs by section 7455 of title 38, United States
2 Code.

3 SEC. 8024. During the current fiscal year, the De-
4 partment of Defense is authorized to incur obligations of
5 not to exceed \$350,000,000 for purposes specified in sec-
6 tion 2350j(c) of title 10, United States Code, in anticipa-
7 tion of receipt of contributions, only from the Government
8 of Kuwait, under that section: *Provided*, That upon re-
9 ceipt, such contributions from the Government of Kuwait
10 shall be credited to the appropriations or fund which in-
11 curred such obligations.

12 SEC. 8025. (a) Of the funds made available in this
13 Act, not less than \$31,109,000 shall be available for the
14 Civil Air Patrol Corporation, of which—

15 (1) \$24,288,000 shall be available from “Oper-
16 ation and Maintenance, Air Force” to support Civil
17 Air Patrol Corporation operation and maintenance,
18 readiness, counterdrug activities, and drug demand
19 reduction activities involving youth programs;

20 (2) \$6,000,000 shall be available from “Aircraft
21 Procurement, Air Force”; and

22 (3) \$821,000 shall be available from “Other
23 Procurement, Air Force” for vehicle procurement.

24 (b) The Secretary of the Air Force should waive reim-
25 bursement for any funds used by the Civil Air Patrol for

1 counter-drug activities in support of Federal, State, and
2 local government agencies.

3 SEC. 8026. (a) None of the funds appropriated in this
4 Act are available to establish a new Department of De-
5 fense (department) federally funded research and develop-
6 ment center (FFRDC), either as a new entity, or as a
7 separate entity administrated by an organization man-
8 aging another FFRDC, or as a nonprofit membership cor-
9 poration consisting of a consortium of other FFRDCs and
10 other non-profit entities.

11 (b) No member of a Board of Directors, Trustees,
12 Overseers, Advisory Group, Special Issues Panel, Visiting
13 Committee, or any similar entity of a defense FFRDC,
14 and no paid consultant to any defense FFRDC, except
15 when acting in a technical advisory capacity, may be com-
16 pensated for his or her services as a member of such enti-
17 ty, or as a paid consultant by more than one FFRDC in
18 a fiscal year: *Provided*, That a member of any such entity
19 referred to previously in this subsection shall be allowed
20 travel expenses and per diem as authorized under the Fed-
21 eral Joint Travel Regulations, when engaged in the per-
22 formance of membership duties.

23 (c) Notwithstanding any other provision of law, none
24 of the funds available to the department from any source
25 during fiscal year 2006 may be used by a defense FFRDC,

1 through a fee or other payment mechanism, for construc-
2 tion of new buildings, for payment of cost sharing for
3 projects funded by Government grants, for absorption of
4 contract overruns, or for certain charitable contributions,
5 not to include employee participation in community service
6 and/or development.

7 (d) Notwithstanding any other provision of law, of
8 the funds available to the department during fiscal year
9 2006, not more than 5,517 staff years of technical effort
10 (staff years) may be funded for defense FFRDCs: *Pro-*
11 *vided*, That of the specific amount referred to previously
12 in this subsection, not more than 1,050 staff years may
13 be funded for the defense studies and analysis FFRDCs:
14 *Provided further*, That this subsection shall not apply to
15 staff years funded in the National Intelligence Program
16 (NIP).

17 (e) The Secretary of Defense shall, with the submis-
18 sion of the department's fiscal year 2007 budget request,
19 submit a report presenting the specific amounts of staff
20 years of technical effort to be allocated for each defense
21 FFRDC during that fiscal year.

22 (f) Notwithstanding any other provision of this Act,
23 the total amount appropriated in this Act for FFRDCs
24 is hereby reduced by \$46,000,000.

1 SEC. 8027. None of the funds appropriated or made
2 available in this Act shall be used to procure carbon, alloy
3 or armor steel plate for use in any Government-owned fa-
4 cility or property under the control of the Department of
5 Defense which were not melted and rolled in the United
6 States or Canada: *Provided*, That these procurement re-
7 strictions shall apply to any and all Federal Supply Class
8 9515, American Society of Testing and Materials (ASTM)
9 or American Iron and Steel Institute (AISI) specifications
10 of carbon, alloy or armor steel plate: *Provided further*,
11 That the Secretary of the military department responsible
12 for the procurement may waive this restriction on a case-
13 by-case basis by certifying in writing to the Committees
14 on Appropriations of the House of Representatives and the
15 Senate that adequate domestic supplies are not available
16 to meet Department of Defense requirements on a timely
17 basis and that such an acquisition must be made in order
18 to acquire capability for national security purposes: *Pro-*
19 *vided further*, That these restrictions shall not apply to
20 contracts which are in being as of the date of the enact-
21 ment of this Act.

22 SEC. 8028. For the purposes of this Act, the ^{term} "con-
23 gressional defense committees" means the Armed Services
24 Committee of the House of Representatives, the Armed
25 Services Committee of the Senate, the Subcommittee on

1 Defense of the Committee on Appropriations of the Sen-
2 ^{and}ate, the Subcommittee on Defense of the Committee on
3 Appropriations of the House of Representatives. In addi-
4 tion, for any matter pertaining to basic allowance for
5 housing, facilities sustainment, restoration and moderniza-
6 tion, environmental restoration and the Defense Health
7 Program, "congressional defense committees" also means
8 the Subcommittee on Military Quality of Life and Vet-
9 erans Affairs, and Related Agencies of the Committee on
10 Appropriations of the House of Representatives.

11 SEC. 8029. During the current fiscal year, the De-
12 partment of Defense may acquire the modification, depot
13 maintenance and repair of aircraft, vehicles and vessels
14 as well as the production of components and other De-
15 fense-related articles, through competition between De-
16 partment of Defense depot maintenance activities and pri-
17 vate firms: *Provided*, That the Senior Acquisition Execu-
18 tive of the military department or Defense Agency con-
19 cerned, with power of delegation, shall certify that success-
20 ful bids include comparable estimates of all direct and in-
21 direct costs for both public and private bids: *Provided fur-*
22 *ther*, That Office of Management and Budget Circular A-
23 76 shall not apply to competitions conducted under this
24 section.

1 SEC. 8030. (a)(1) If the Secretary of Defense, after
2 consultation with the United States Trade Representative,
3 determines that a foreign country which is party to an
4 agreement described in paragraph (2) has violated the
5 terms of the agreement by discriminating against certain
6 types of products produced in the United States that are
7 covered by the agreement, the Secretary of Defense shall
8 rescind the Secretary's blanket waiver of the Buy Amer-
9 ican Act with respect to such types of products produced
10 in that foreign country.

11 (2) An agreement referred to in paragraph (1) is any
12 reciprocal defense procurement memorandum of under-
13 standing, between the United States and a foreign country
14 pursuant to which the Secretary of Defense has prospec-
15 tively waived the Buy American Act for certain products
16 in that country.

17 (b) The Secretary of Defense shall submit to the Con-
18 gress a report on the amount of Department of Defense
19 purchases from foreign entities in fiscal year 2006. Such
20 report shall separately indicate the dollar value of items
21 for which the Buy American Act was waived pursuant to
22 any agreement described in subsection (a)(2), the Trade
23 Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any
24 international agreement to which the United States is a
25 party.

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

7 SEC. 8031. Appropriations contained in this Act that
8 remain available at the end of the current fiscal year, and
9 at the end of each fiscal year hereafter, as a result of en-
10 ergy cost savings realized by the Department of Defense
11 shall remain available for obligation for the next fiscal
12 year to the extent, and for the purposes, provided in sec-
13 tion 2865 of title 10, United States Code.

14 SEC. 8032. The President shall include with each
15 budget for a fiscal year submitted to the Congress under
16 section 1105 of title 31, United States Code, and here-
17 after, materials that shall identify clearly and separately
18 the amounts requested in the budget for appropriation for
19 that fiscal year for salaries and expenses related to admin-
20 istrative activities of the Department of Defense, the mili-
21 tary departments, and the defense agencies.

22 SEC. 8033. Notwithstanding any other provision of
23 law, funds available during the current fiscal year and
24 hereafter for "Drug Interdiction and Counter-Drug Activi-

1 ties, Defense” may be obligated for the Young Marines
2 program.

3 (INCLUDING TRANSFER OF FUNDS)

4 SEC. 8034. During the current fiscal year, amounts
5 contained in the Department of Defense Overseas Military
6 Facility Investment Recovery Account established by sec-
7 tion 2921(c)(1) of the National Defense Authorization Act
8 of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall
9 be available until expended for the payments specified by
10 section 2921(c)(2) of that Act.

11 SEC. 8035. (a) IN GENERAL.—Notwithstanding any
12 other provision of law, the Secretary of the Air Force may
13 convey at no cost to the Air Force, without consideration,
14 to Indian tribes located in the States of North Dakota,
15 South Dakota, Montana, and Minnesota relocatable mili-
16 tary housing units located at Grand Forks Air Force Base
17 and Minot Air Force Base that are excess to the needs
18 of the Air Force.

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

1 (c) RESOLUTION OF HOUSING UNIT CONFLICTS.—

2 The Operation Walking Shield Program shall resolve any
3 conflicts among requests of Indian tribes for housing units
4 under subsection (a) before submitting requests to the
5 Secretary of the Air Force under subsection (b).

6 (d) INDIAN TRIBE DEFINED.—In this section, the
7 term “Indian tribe” means any recognized Indian tribe in-
8 cluded on the current list published by the Secretary of
9 the Interior under section 104 of the Federally Recognized
10 Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat.
11 4792; 25 U.S.C. 479a–1).

12 SEC. 8036. During the current fiscal year, appropria-
13 tions which are available to the Department of Defense
14 for operation and maintenance may be used to purchase
15 items having an investment item unit cost of not more
16 than \$250,000.

17 SEC. 8037. (a) During the current fiscal year, none
18 of the appropriations or funds available to the Department
19 of Defense Working Capital Funds shall be used for the
20 purchase of an investment item for the purpose of acquir-
21 ing a new inventory item for sale or anticipated sale dur-
22 ing the current fiscal year or a subsequent fiscal year to
23 customers of the Department of Defense Working Capital
24 Funds if such an item would not have been chargeable
25 to the Department of Defense Business Operations Fund

1 during fiscal year 1994 and if the purchase of such an
2 investment item would be chargeable during the current
3 fiscal year to appropriations made to the Department of
4 Defense for procurement.

5 (b) The fiscal year 2007 budget request for the De-
6 partment of Defense as well as all justification material
7 and other documentation supporting the fiscal year 2007
8 Department of Defense budget shall be prepared and sub-
9 mitted to the Congress on the basis that any equipment
10 which was classified as an end item and funded in a pro-
11 curement appropriation contained in this Act shall be
12 budgeted for in a proposed fiscal year 2007 procurement
13 appropriation and not in the supply management business
14 area or any other area or category of the Department of
15 Defense Working Capital Funds.

16 SEC. 8038. None of the funds appropriated by this
17 Act for programs of the Central Intelligence Agency shall
18 remain available for obligation beyond the current fiscal
19 year, except for funds appropriated for the Reserve for
20 Contingencies, which shall remain available until Sep-
21 tember 30, 2007: *Provided*, That funds appropriated,
22 transferred, or otherwise credited to the Central Intel-
23 ligence Agency Central Services Working Capital Fund
24 during this or any prior or subsequent fiscal year shall
25 remain available until expended: *Provided further*, That

1 any funds appropriated or transferred to the Central Intel-
2 ligence Agency for advanced research and development ac-
3 quisition, for agent operations, and for covert action pro-
4 grams authorized by the President under section 503 of
5 the National Security Act of 1947, as amended, shall re-
6 main available until September 30, 2007.

7 SEC. 8039. Notwithstanding any other provision of
8 law, funds made available in this Act for the Defense In-
9 telligence Agency may be used for the design, develop-
10 ment, and deployment of General Defense Intelligence
11 Program intelligence communications and intelligence in-
12 formation systems for the Services, the Unified and Speci-
13 fied Commands, and the component commands.

14 SEC. 8040. Of the funds appropriated to the Depart-
15 ment of Defense under the heading "Operation and Main-
16 tenance, Defense-Wide", not less than \$10,000,000 shall
17 be made available only for the mitigation of environmental
18 impacts, including training and technical assistance to
19 tribes, related administrative support, the gathering of in-
20 formation, documenting of environmental damage, and de-
21 veloping a system for prioritization of mitigation and cost
22 to complete estimates for mitigation, on Indian lands re-
23 sulting from Department of Defense activities.

24 SEC. 8041. (a) None of the funds appropriated in this
25 Act may be expended by an entity of the Department of

1 Defense unless the entity, in expending the funds, com-
2 plies with the Buy American Act. For purposes of this
3 subsection, the term "Buy American Act" means title III
4 of the Act entitled "An Act making appropriations for the
5 Treasury and Post Office Departments for the fiscal year
6 ending June 30, 1934, and for other purposes", approved
7 March 3, 1933 (41 U.S.C. 10a et seq.).

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

16 (c) In the case of any equipment or products pur-
17 chased with appropriations provided under this Act, it is
18 the sense of the Congress that any entity of the Depart-
19 ment of Defense, in expending the appropriation, purchase
20 only American-made equipment and products, provided
21 that American-made equipment and products are cost-
22 competitive, quality-competitive, and available in a timely
23 fashion.

24 SEC. 8042. None of the funds appropriated by this
25 Act shall be available for a contract for studies, analysis,

1 or consulting services entered into without competition on
2 the basis of an unsolicited proposal unless the head of the
3 activity responsible for the procurement determines—

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

7 (2) the purpose of the contract is to explore an
8 unsolicited proposal which offers significant sci-
9 entific or technological promise, represents the prod-
10 uct of original thinking, and was submitted in con-
11 fidence by one source; or

12 (3) the purpose of the contract is to take ad-
13 vantage of unique and significant industrial accom-
14 plishment by a specific concern, or to insure that a
15 new product or idea of a specific concern is given fi-
16 nancial support: *Provided*, That this limitation shall
17 not apply to contracts in an amount of less than
18 \$25,000, contracts related to improvements of equip-
19 ment that is in development or production, or con-
20 tracts as to which a civilian official of the Depart-
21 ment of Defense, who has been confirmed by the
22 Senate, determines that the award of such contract
23 is in the interest of the national defense.

1 SEC. 8043. (a) Except as provided in subsection (b)
2 and (c), none of the funds made available by this Act may
3 be used—

4 (1) to establish a field operating agency; or

5 (2) to pay the basic pay of a member of the
6 Armed Forces or civilian employee of the depart-
7 ment who is transferred or reassigned from a head-
8 quarters activity if the member or employee's place
9 of duty remains at the location of that headquarters.

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

17 (c) This section does not apply to—

18 (1) field operating agencies funded within the
19 National Intelligence Program; or

20 (2) an Army field operating agency established
21 to eliminate, mitigate, or counter the effects of im-
22 proved explosive devices, and, as determined by the
23 Secretary of the Army, other similar threats.

24 SEC. 8044. The Secretary of Defense, acting through
25 the Office of Economic Adjustment of the Department of

1 Defense, may use funds made available in this Act under
2 the heading "Operation and Maintenance, Defense-Wide"
3 to make grants and supplement other Federal funds in
4 accordance with the guidance provided in the Joint Ex-
5 planatory Statement of the Committee of Conference to
6 accompany the conference report on the bill H.R. 2863,
7 and the projects specified in such guidance shall be consid-
8 ered to be authorized by law.

9 (RESCISSIONS)

10 SEC. 8045. Of the funds appropriated in Department
11 of Defense Appropriations Acts, the following funds are
12 hereby rescinded from the following accounts and pro-
13 grams in the specified amounts:

14 "Missile Procurement, Army, 2004/2006",
15 \$20,000,000;

16 "Missile Procurement, Army, 2005/2007",
17 \$14,931,000;

18 "Other Procurement, Army, 2005/2007",
19 \$68,637,000;

20 "Aircraft Procurement, Navy, 2005/2007",
21 \$16,800,000;

22 "Shipbuilding and Conversion, Navy, 2005/
23 2009", \$42,200,000;

24 "Other Procurement, Navy, 2005/2007",
25 \$43,000,000;

1 “Procurement, Marine Corps, 2005/2007”,
2 \$4,300,000;

3 “Missile Procurement, Air Force, 2005/2007”,
4 \$92,000,000;

5 “Other Procurement, Air Force, 2005/2007”,
6 \$3,400,000;

7 “Research, Development, Test and Evaluation,
8 Army, 2005/2006”, \$4,300,000;

9 “Research, Development, Test and Evaluation,
10 Navy, 2005/2006”, \$32,755,000; and

11 “Research, Development, Test and Evaluation,
12 Air Force, 2005/2006”, \$63,400,000.

13 SEC. 8046. None of the funds available in this Act
14 may be used to reduce the authorized positions for mili-
15 tary (civilian) technicians of the Army National Guard,
16 the Air National Guard, Army Reserve and Air Force Re-
17 serve for the purpose of applying any administratively im-
18 posed civilian personnel ceiling, freeze, or reduction on
19 military (civilian) technicians, unless such reductions are
20 a direct result of a reduction in military force structure.

21 SEC. 8047. None of the funds appropriated or other-
22 wise made available in this Act may be obligated or ex-
23 pended for assistance to the Democratic People’s Republic
24 of North Korea unless specifically appropriated for that
25 purpose.

1 SEC. 8048. Funds appropriated in this Act for oper-
2 ation and maintenance of the Military Departments, Com-
3 batant Commands and Defense Agencies shall be available
4 for reimbursement of pay, allowances and other expenses
5 which would otherwise be incurred against appropriations
6 for the National Guard and Reserve when members of the
7 National Guard and Reserve provide intelligence or coun-
8 terintelligence support to Combatant Commands, Defense
9 Agencies and Joint Intelligence Activities, including the
10 activities and programs included within the National Intel-
11 ligence Program, the Joint Military Intelligence Program,
12 and the Tactical Intelligence and Related Activities aggre-
13 gate: *Provided*, That nothing in this section authorizes de-
14 viation from established Reserve and National Guard per-
15 sonnel and training procedures.

16 SEC. 8049. During the current fiscal year, none of
17 the funds appropriated in this Act may be used to reduce
18 the civilian medical and medical support personnel as-
19 signed to military treatment facilities below the September
20 30, 2003 level: *Provided*, That the Service Surgeons Gen-
21 eral may waive this section by certifying to the congres-
22 sional defense committees that the beneficiary population
23 is declining in some catchment areas and civilian strength
24 reductions may be consistent with responsible resource
25 stewardship and capitation-based budgeting.

1 SEC. 8050. Up to \$2,000,000 of the funds appro-
2 priated under the heading, "Operation and Maintenance,
3 Navy" may be made available to contract for the installa-
4 tion, repair, and maintenance of an on-base and adjacent
5 off-base wastewater/treatment facility and infrastructure
6 critical to base operations and the public health and safety
7 of community residents in the vicinity of the NCTAMS.

8 SEC. 8051. Notwithstanding any other provision of
9 law, that not more than 35 percent of funds provided in
10 this Act for environmental remediation may be obligated
11 under indefinite delivery/indefinite quantity contracts with
12 a total contract value of \$130,000,000 or higher.

13 SEC. 8052. (a) None of the funds available to the
14 Department of Defense for any fiscal year for drug inter-
15 diction or counter-drug activities may be transferred to
16 any other department or agency of the United States ex-
17 cept as specifically provided in an appropriations law.

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

23 SEC. 8053. Up to \$3,000,000 of the funds appro-
24 priated in Title II of this Act under the heading, "Oper-
25 ation and Maintenance, Army", may be made available to

1 contract with the Army Historical Foundation, a nonprofit
2 organization, for services required to solicit non-Federal
3 donations to support construction and operation of the
4 National Museum of the United States Army at Fort
5 Belvoir, Virginia: *Provided*, That notwithstanding any
6 other provision of law, the Army is authorized to receive
7 future payments in this or the subsequent fiscal year from
8 any nonprofit organization chartered to support the Na-
9 tional Museum of the United States Army to reimburse
10 amounts expended by the Army pursuant to this section:
11 *Provided further*, That any reimbursements received pur-
12 suant to this section shall be merged with "Operation and
13 Maintenance, Army" and shall be made available for the
14 same purposes and for the same time period as that appro-
15 priation account.

16 (TRANSFER OF FUNDS)

17 SEC. 8054. Appropriations available under the head-
18 ing "Operation and Maintenance, Defense-Wide" for the
19 current fiscal year and hereafter for increasing energy and
20 water efficiency in Federal buildings may, during their pe-
21 riod of availability, be transferred to other appropriations
22 or funds of the Department of Defense for projects related
23 to increasing energy and water efficiency, to be merged
24 with and to be available for the same general purposes,
25 and for the same time period, as the appropriation or fund
26 to which transferred.

1 SEC. 8055. None of the funds appropriated by this
2 Act may be used for the procurement of ball and roller
3 bearings other than those produced by a domestic source
4 and of domestic origin: *Provided*, That the Secretary of
5 the military department responsible for such procurement
6 may waive this restriction on a case-by-case basis by certi-
7 fying in writing to the Committees on Appropriations of
8 the House of Representatives and the Senate, that ade-
9 quate domestic supplies are not available to meet Depart-
10 ment of Defense requirements on a timely basis and that
11 such an acquisition must be made in order to acquire ca-
12 pability for national security purposes: *Provided further*,
13 That this restriction shall not apply to the purchase of
14 "commercial items", as defined by section 4(12) of the
15 Office of Federal Procurement Policy Act, except that the
16 restriction shall apply to ball or roller bearings purchased
17 as end items.

18 SEC. 8056. None of the funds in this Act may be
19 used to purchase any supercomputer which is not manu-
20 factured in the United States, unless the Secretary of De-
21 fense certifies to the congressional defense committees
22 that such an acquisition must be made in order to acquire
23 capability for national security purposes that is not avail-
24 able from United States manufacturers.

1 SEC. 8057. Notwithstanding any other provision of
2 law, each contract awarded by the Department of Defense
3 during the current fiscal year for construction or service
4 performed in whole or in part in a State (as defined in
5 section 381(d) of title 10, United States Code) which is
6 not contiguous with another State and has an unemploy-
7 ment rate in excess of the national average rate of unem-
8 ployment as determined by the Secretary of Labor, shall
9 include a provision requiring the contractor to employ, for
10 the purpose of performing that portion of the contract in
11 such State that is not contiguous with another State, indi-
12 viduals who are residents of such State and who, in the
13 case of any craft or trade, possess or would be able to
14 acquire promptly the necessary skills: *Provided*, That the
15 Secretary of Defense may waive the requirements of this
16 section, on a case-by-case basis, in the interest of national
17 security.

18 SEC. 8058. None of the funds made available in this
19 or any other Act may be used to pay the salary of any
20 officer or employee of the Department of Defense who ap-
21 proves or implements the transfer of administrative re-
22 sponsibilities or budgetary resources of any program,
23 project, or activity financed by this Act to the jurisdiction
24 of another Federal agency not financed by this Act with-
25 out the express authorization of Congress: *Provided*, That

1 this limitation shall not apply to transfers of funds ex-
2 pressly provided for in Defense Appropriations Acts, or
3 provisions of Acts providing supplemental appropriations
4 for the Department of Defense.

5 SEC. 8059. (a) LIMITATION ON TRANSFER OF DE-
6 FENSE ARTICLES AND SERVICES.—Notwithstanding any
7 other provision of law, none of the funds available to the
8 Department of Defense for the current fiscal year may be
9 obligated or expended to transfer to another nation or an
10 international organization any defense articles or services
11 (other than intelligence services) for use in the activities
12 described in subsection (b) unless the congressional de-
13 fense committees, the Committee on International Rela-
14 tions of the House of Representatives, and the Committee
15 on Foreign Relations of the Senate are notified 15 days
16 in advance of such transfer.

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

18 (1) any international peacekeeping or peace-en-
19 forcement operation under the authority of chapter
20 VI or chapter VII of the United Nations Charter
21 under the authority of a United Nations Security
22 Council resolution; and

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

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

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

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

7 (3) In the case of a proposed transfer of equip-
8 ment or supplies—

9 (A) a statement of whether the inventory
10 requirements of all elements of the Armed
11 Forces (including the reserve components) for
12 the type of equipment or supplies to be trans-
13 ferred have been met; and

14 (B) a statement of whether the items pro-
15 posed to be transferred will have to be replaced
16 and, if so, how the President proposes to pro-
17 vide funds for such replacement.

18 SEC. 8060. None of the funds available to the De-
19 partment of Defense under this Act shall be obligated or
20 expended to pay a contractor under a contract with the
21 Department of Defense for costs of any amount paid by
22 the contractor to an employee when—

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

1 (2) such bonus is part of restructuring costs as-
2 sociated with a business combination.

3 (INCLUDING TRANSFER OF FUNDS)

4 SEC. 8061. During the current fiscal year, no more
5 than \$30,000,000 of appropriations made in this Act
6 under the heading "Operation and Maintenance, Defense-
7 Wide" may be transferred to appropriations available for
8 the pay of military personnel, to be merged with, and to
9 be available for the same time period as the appropriations
10 to which transferred, to be used in support of such per-
11 sonnel in connection with support and services for eligible
12 organizations and activities outside the Department of De-
13 fense pursuant to section 2012 of title 10, United States
14 Code.

15 SEC. 8062. During the current fiscal year, in the case
16 of an appropriation account of the Department of Defense
17 for which the period of availability for obligation has ex-
18 pired or which has closed under the provisions of section
19 1552 of title 31, United States Code, and which has a
20 negative unliquidated or unexpended balance, an obliga-
21 tion or an adjustment of an obligation may be charged
22 to any current appropriation account for the same purpose
23 as the expired or closed account if—

24 (1) the obligation would have been properly
25 chargeable (except as to amount) to the expired or

1 closed account before the end of the period of avail-
2 ability or closing of that account;

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

6 (3) in the case of an expired account, the obli-
7 gation is not chargeable to a current appropriation
8 of the Department of Defense under the provisions
9 of section 1405(b)(8) of the National Defense Au-
10 thorization Act for Fiscal Year 1991, Public Law
11 101-510, as amended (31 U.S.C. 1551 note): *Pro-*
12 *vided*, That in the case of an expired account, if sub-
13 sequent review or investigation discloses that there
14 was not in fact a negative unliquidated or unex-
15 pended balance in the account, any charge to a cur-
16 rent account under the authority of this section shall
17 be reversed and recorded against the expired ac-
18 count: *Provided further*, That the total amount
19 charged to a current appropriation under this sec-
20 tion may not exceed an amount equal to 1 percent
21 of the total appropriation for that account.

22 SEC. 8063. (a) Notwithstanding any other provision
23 of law, the Chief of the National Guard Bureau may per-
24 mit the use of equipment of the National Guard Distance
25 Learning Project by any person or entity on a space-avail-

1 able, reimbursable basis. The Chief of the National Guard
2 Bureau shall establish the amount of reimbursement for
3 such use on a case-by-case basis.

4 (b) Amounts collected under subsection (a) shall be
5 credited to funds available for the National Guard Dis-
6 tance Learning Project and be available to defray the costs
7 associated with the use of equipment of the project under
8 that subsection. Such funds shall be available for such
9 purposes without fiscal year limitation.

10 SEC. 8064. Using funds available by this Act or any
11 other Act, the Secretary of the Air Force, pursuant to a
12 determination under section 2690 of title 10, United
13 States Code, may implement cost-effective agreements for
14 required heating facility modernization in the
15 Kaiserslautern Military Community in the Federal Repub-
16 lic of Germany: *Provided*, That in the City of
17 Kaiserslautern such agreements will include the use of
18 United States anthracite as the base load energy for mu-
19 nicipal district heat to the United States Defense installa-
20 tions: *Provided further*, That at Landstuhl Army Regional
21 Medical Center and Ramstein Air Base, furnished heat
22 may be obtained from private, regional or municipal serv-
23 ices, if provisions are included for the consideration of
24 United States coal as an energy source.

1 SEC. 8065. None of the funds appropriated in title
2 IV of this Act may be used to procure end-items for deliv-
3 ery to military forces for operational training, operational
4 use or inventory requirements: *Provided*, That this restric-
5 tion does not apply to end-items used in development,
6 prototyping, and test activities preceding and leading to
7 acceptance for operational use: *Provided further*, That this
8 restriction does not apply to programs funded within the
9 National Intelligence Program: *Provided further*, That the
10 Secretary of Defense may waive this restriction on a case-
11 by-case basis by certifying in writing to the Committees
12 on Appropriations of the House of Representatives and the
13 Senate that it is in the national security interest to do
14 so.

15 SEC. 8066. Notwithstanding any other provision of
16 law, funds available to the Department of Defense shall
17 be made available to provide transportation of medical
18 supplies and equipment, on a nonreimbursable basis, to
19 American Samoa, and funds available to the Department
20 of Defense shall be made available to provide transpor-
21 tation of medical supplies and equipment, on a non-
22 reimbursable basis, to the Indian Health Service when it
23 is in conjunction with a civil-military project.

1 SEC. 8067. None of the funds made available in this
2 Act may be used to approve or license the sale of the F/
3 A-22 advanced tactical fighter to any foreign government.

4 SEC. 8068. (a) The Secretary of Defense may, on a
5 case-by-case basis, waive with respect to a foreign country
6 each limitation on the procurement of defense items from
7 foreign sources provided in law if the Secretary determines
8 that the application of the limitation with respect to that
9 country would invalidate cooperative programs entered
10 into between the Department of Defense and the foreign
11 country, or would invalidate reciprocal trade agreements
12 for the procurement of defense items entered into under
13 section 2531 of title 10, United States Code, and the
14 country does not discriminate against the same or similar
15 defense items produced in the United States for that coun-
16 try.

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

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

20 (2) options for the procurement of items that
21 are exercised after such date under contracts that
22 are entered into before such date if the option prices
23 are adjusted for any reason other than the applica-
24 tion of a waiver granted under subsection (a).

1 (c) Subsection (a) does not apply to a limitation re-
2 garding construction of public vessels, ball and roller bear-
3 ings, food, and clothing or textile materials as defined by
4 section 11 (chapters 50–65) of the Harmonized Tariff
5 Schedule and products classified under headings 4010,
6 4202, 4203, 6401 through 6406, 6505, 7019, 7218
7 through 7229, 7304.41 through 7304.49, 7306.40, 7502
8 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

9 SEC. 8069. (a) PROHIBITION.—None of the funds
10 made available by this Act may be used to support any
11 training program involving a unit of the security forces
12 of a foreign country if the Secretary of Defense has re-
13 ceived credible information from the Department of State
14 that the unit has committed a gross violation of human
15 rights, unless all necessary corrective steps have been
16 taken.

17 (b) MONITORING.—The Secretary of Defense, in con-
18 sultation with the Secretary of State, shall ensure that
19 prior to a decision to conduct any training program re-
20 ferred to in subsection (a), full consideration is given to
21 all credible information available to the Department of
22 State relating to human rights violations by foreign secu-
23 rity forces.

24 (c) WAIVER.—The Secretary of Defense, after con-
25 sultation with the Secretary of State, may waive the prohi-

1 bition in subsection (a) if he determines that such waiver
2 is required by extraordinary circumstances.

3 (d) REPORT.—Not more than 15 days after the exer-
4 cise of any waiver under subsection (c), the Secretary of
5 Defense shall submit a report to the congressional defense
6 committees describing the extraordinary circumstances,
7 the purpose and duration of the training program, the
8 United States forces and the foreign security forces in-
9 volved in the training program, and the information relat-
10 ing to human rights violations that necessitates the waiv-
11 er.

12 SEC. 8070. None of the funds appropriated or made
13 available in this Act to the Department of the Navy shall
14 be used to develop, lease or procure the T-AKE class of
15 ships unless the main propulsion diesel engines and
16 propulsors are manufactured in the United States by a
17 domestically operated entity: *Provided*, That the Secretary
18 of Defense may waive this restriction on a case-by-case
19 basis by certifying in writing to the Committees on Appro-
20 priations of the House of Representatives and the Senate
21 that adequate domestic supplies are not available to meet
22 Department of Defense requirements on a timely basis
23 and that such an acquisition must be made in order to
24 acquire capability for national security purposes or there
25 exists a significant cost or quality difference.

1 SEC. 8071. None of the funds appropriated or other-
2 wise made available by this or other Department of De-
3 fense Appropriations Acts may be obligated or expended
4 for the purpose of performing repairs or maintenance to
5 military family housing units of the Department of De-
6 fense, including areas in such military family housing
7 units that may be used for the purpose of conducting offi-
8 cial Department of Defense business.

9 SEC. 8072. Notwithstanding any other provision of
10 law, funds appropriated in this Act under the heading
11 "Research, Development, Test and Evaluation, Defense-
12 Wide" for any new start advanced concept technology
13 demonstration project may only be obligated 30 days after
14 a report, including a description of the project, the
15 planned acquisition and transition strategy and its esti-
16 mated annual and total cost, has been provided in writing
17 to the congressional defense committees: *Provided*, That
18 the Secretary of Defense may waive this restriction on a
19 case-by-case basis by certifying to the congressional de-
20 fense committees that it is in the national interest to do
21 so.

22 SEC. 8073. The Secretary of Defense shall provide
23 a classified quarterly report beginning 30 days after enact-
24 ment of this Act, to the House and Senate Appropriations
25 Committees, Subcommittees on Defense on certain mat-

1 ters as directed in the classified annex accompanying this
2 Act.

3 SEC. 8074. During the current fiscal year, refunds
4 attributable to the use of the Government travel card, re-
5 funds attributable to the use of the Government Purchase
6 Card and refunds attributable to official Government trav-
7 el arranged by Government Contracted Travel Manage-
8 ment Centers may be credited to operation and mainte-
9 nance, and research, development, test and evaluation ac-
10 counts of the Department of Defense which are current
11 when the refunds are received.

12 SEC. 8075. (a) REGISTERING FINANCIAL MANAGE-
13 MENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD
14 CHIEF INFORMATION OFFICER.—None of the funds ap-
15 propriated in this Act may be used for a mission critical
16 or mission essential financial management information
17 technology system (including a system funded by the de-
18 fense working capital fund) that is not registered with the
19 Chief Information Officer of the Department of Defense.
20 A system shall be considered to be registered with that
21 officer upon the furnishing to that officer of notice of the
22 system, together with such information concerning the
23 system as the Secretary of Defense may prescribe. A fi-
24 nancial management information technology system shall
25 be considered a mission critical or mission essential infor-

1 mation technology system as defined by the Under Sec-
2 retary of Defense (Comptroller).

3 (b) CERTIFICATIONS AS TO COMPLIANCE WITH FI-
4 NANCIAL MANAGEMENT MODERNIZATION PLAN.—

5 (1) During the current fiscal year, a financial
6 management automated information system, a mixed
7 information system supporting financial and non-fi-
8 nancial systems, or a system improvement of more
9 than \$1,000,000 may not receive Milestone A ap-
10 proval, Milestone B approval, or full rate production,
11 or their equivalent, within the Department of De-
12 fense until the Under Secretary of Defense (Comp-
13 troller) certifies, with respect to that milestone, that
14 the system is being developed and managed in ac-
15 cordance with the Department's Financial Manage-
16 ment Modernization Plan. The Under Secretary of
17 Defense (Comptroller) may require additional certifi-
18 cations, as appropriate, with respect to any such sys-
19 tem.

20 (2) The Chief Information Officer shall provide
21 the congressional defense committees timely notifica-
22 tion of certifications under paragraph (1).

23 (c) CERTIFICATIONS AS TO COMPLIANCE WITH
24 CLINGER-COHEN ACT.—

1 (1) During the current fiscal year, a major
2 automated information system may not receive Mile-
3 stone A approval, Milestone B approval, or full rate
4 production approval, or their equivalent, within the
5 Department of Defense until the Chief Information
6 Officer certifies, with respect to that milestone, that
7 the system is being developed in accordance with the
8 Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.).
9 The Chief Information Officer may require addi-
10 tional certifications, as appropriate, with respect to
11 any such system.

12 (2) The Chief Information Officer shall provide
13 the congressional defense committees timely notifica-
14 tion of certifications under paragraph (1). Each
15 such notification shall include, at a minimum, the
16 funding baseline and milestone schedule for each
17 system covered by such a certification and confirma-
18 tion that the following steps have been taken with
19 respect to the system:

20 (A) Business process reengineering.

21 (B) An analysis of alternatives.

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

24 (D) Performance measures.

1 (E) An information assurance strategy
2 consistent with the Department's Global Infor-
3 mation Grid.

4 (d) DEFINITIONS.—For purposes of this section:

5 (1) The term “Chief Information Officer”
6 means the senior official of the Department of De-
7 fense designated by the Secretary of Defense pursu-
8 ant to section 3506 of title 44, United States Code.

9 (2) The term “information technology system”
10 has the meaning given the term “information tech-
11 nology” in section 5002 of the Clinger-Cohen Act of
12 1996 (40 U.S.C. 1401).

13 SEC. 8076. During the current fiscal year, none of
14 the funds available to the Department of Defense may be
15 used to provide support to another department or agency
16 of the United States if such department or agency is more
17 than 90 days in arrears in making payment to the Depart-
18 ment of Defense for goods or services previously provided
19 to such department or agency on a reimbursable basis:
20 *Provided*, That this restriction shall not apply if the de-
21 partment is authorized by law to provide support to such
22 department or agency on a nonreimbursable basis, and is
23 providing the requested support pursuant to such author-
24 ity: *Provided further*, That the Secretary of Defense may
25 waive this restriction on a case-by-case basis by certifying

1 in writing to the Committees on Appropriations of the
2 House of Representatives and the Senate that it is in the
3 national security interest to do so.

4 SEC. 8077. Notwithstanding section 12310(b) of title
5 10, United States Code, a Reserve who is a member of
6 the National Guard serving on full-time National Guard
7 duty under section 502(f) of Title 32 may perform duties
8 in support of the ground-based elements of the National
9 Ballistic Missile Defense System.

10 SEC. 8078. None of the funds provided in this Act
11 may be used to transfer to any nongovernmental entity
12 ammunition held by the Department of Defense that has
13 a center-fire cartridge and a United States military no-
14 menclature designation of "armor penetrator", "armor
15 piercing (AP)", "armor piercing incendiary (API)", or
16 "armor-piercing incendiary-tracer (API-T)", except to an
17 entity performing demilitarization services for the Depart-
18 ment of Defense under a contract that requires the entity
19 to demonstrate to the satisfaction of the Department of
20 Defense that armor piercing projectiles are either: (1) ren-
21 dered incapable of reuse by the demilitarization process;
22 or (2) used to manufacture ammunition pursuant to a con-
23 tract with the Department of Defense or the manufacture
24 of ammunition for export pursuant to a License for Per-

1 manent Export of Unclassified Military Articles issued by
2 the Department of State.

3 SEC. 8079. Notwithstanding any other provision of
4 law, the Chief of the National Guard Bureau, or his des-
5 ignee, may waive payment of all or part of the consider-
6 ation that otherwise would be required under section 2667
7 of title 10, United States Code, in the case of a lease of
8 personal property for a period not in excess of 1 year to
9 any organization specified in section 508(d) of title 32,
10 United States Code, or any other youth, social, or fra-
11 ternal non-profit organization as may be approved by the
12 Chief of the National Guard Bureau, or his designee, on
13 a case-by-case basis.

14 SEC. 8080. None of the funds appropriated by this
15 Act shall be used for the support of any nonappropriated
16 funds activity of the Department of Defense that procures
17 malt beverages and wine with nonappropriated funds for
18 resale (including such alcoholic beverages sold by the
19 drink) on a military installation located in the United
20 States unless such malt beverages and wine are procured
21 within that State, or in the case of the District of Colum-
22 bia, within the District of Columbia, in which the military
23 installation is located: *Provided*, That in a case in which
24 the military installation is located in more than one State,
25 purchases may be made in any State in which the installa-

1 tion is located: *Provided further*, That such local procure-
2 ment requirements for malt beverages and wine shall
3 apply to all alcoholic beverages only for military installa-
4 tions in States which are not contiguous with another
5 State: *Provided further*, That alcoholic beverages other
6 than wine and malt beverages, in contiguous States and
7 the District of Columbia shall be procured from the most
8 competitive source, price and other factors considered.

9 SEC. 8081. Funds available to the Department of De-
10 fense for the Global Positioning System during the current
11 fiscal year may be used to fund civil requirements associ-
12 ated with the satellite and ground control segments of
13 such system's modernization program.

14 (INCLUDING TRANSFER OF FUNDS)

15 SEC. 8082. Of the amounts appropriated in this Act
16 under the heading, "Operation and Maintenance, Army",
17 \$147,900,000 shall remain available until expended: *Pro-*
18 *vided*, That notwithstanding any other provision of law,
19 the Secretary of Defense is authorized to transfer such
20 funds to other activities of the Federal Government: *Pro-*
21 *vided further*, That the Secretary of Defense is authorized
22 to enter into and carry out contracts for the acquisition
23 of real property, construction, personal services, and oper-
24 ations related to projects described in further detail in the
25 Classified Annex accompanying the Department of De-
26 fense Appropriations Act, 2006, consistent with the terms

1 and conditions set forth therein: *Provided further*, That
2 contracts entered into under the authority of this section
3 may provide for such indemnification as the Secretary de-
4 termines to be necessary: *Provided further*, That projects
5 authorized by this section shall comply with applicable
6 Federal, State, and local law to the maximum extent con-
7 sistent with the national security, as determined by the
8 Secretary of Defense.

9 SEC. 8083. Section 8106 of the Department of De-
10 fense Appropriations Act, 1997 (titles I through VIII of
11 the matter under subsection 101(b) of Public Law 104-
12 208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall con-
13 tinue in effect to apply to disbursements that are made
14 by the Department of Defense in fiscal year 2006.

15 SEC. 8084. In addition to amounts provided else-
16 where in this Act, \$2,200,000 is hereby appropriated to
17 the Department of Defense, to remain available for obliga-
18 tion until expended: *Provided*, That notwithstanding any
19 other provision of law, these funds shall be available only
20 for a grant to the Fisher House Foundation, Inc., only
21 for the construction and furnishing of additional Fisher
22 Houses to meet the needs of military family members
23 when confronted with the illness or hospitalization of an
24 eligible military beneficiary.

1 SEC. 8085. (a) The Secretary of Defense, in coordi-
2 nation with the Secretary of Health and Human Services,
3 may carry out a program to distribute surplus dental and
4 medical equipment of the Department of Defense, at no
5 cost to the Department of Defense, to Indian Health Serv-
6 ice facilities and to federally-qualified health centers (with-
7 in the meaning of section 1905(l)(2)(B) of the Social Se-
8 curity Act (42 U.S.C. 1396d(l)(2)(B))).

9 (b) In carrying out this provision, the Secretary of
10 Defense shall give the Indian Health Service a property
11 disposal priority equal to the priority given to the Depart-
12 ment of Defense and its twelve special screening programs
13 in distribution of surplus dental and medical supplies and
14 equipment.

15 SEC. 8086. Amounts appropriated in title II of this
16 Act are hereby reduced by \$265,000,000 to reflect savings
17 attributable to efficiencies and management improvements
18 in the funding of miscellaneous or other contracts in the
19 military departments, as follows:

20 (1) From "Operation and Maintenance, Army",
21 \$26,000,000.

22 (2) From "Operation and Maintenance, Navy",
23 \$85,000,000.

24 (3) From "Operation and Maintenance, Air
25 Force", \$154,000,000.

1 SEC. 8087. The total amount appropriated or other-
2 wise made available in this Act is hereby reduced by
3 \$100,000,000 to limit excessive growth in the procure-
4 ment of advisory and assistance services, to be distributed
5 as follows:

6 “Operation and Maintenance, Army”, \$25,000,000.

7 “Operation and Maintenance, Navy”, \$10,000,000.

8 “Operation and Maintenance, Air Force”,
9 \$30,000,000.

10 “Operation and Maintenance, Defense-Wide”,
11 \$35,000,000.

12 (INCLUDING TRANSFER OF FUNDS)

13 SEC. 8088. Of the amounts appropriated in this Act
14 under the heading “Research, Development, Test and
15 Evaluation, Defense-Wide”, \$132,866,000 shall be made
16 available for the Arrow missile defense program: *Provided*,
17 That of this amount, \$60,250,000 shall be available for
18 the purpose of producing Arrow missile components in the
19 United States and Arrow missile components and missiles
20 in Israel to meet Israel’s defense requirements, consistent
21 with each nation’s laws, regulations and procedures, and
22 \$10,000,000 shall be available for the purpose of the initi-
23 ation of a joint feasibility study designated the Short
24 Range Ballistic Missile Defense (SRBMD) initiative: *Pro-*
25 *vided further*, That funds made available under this provi-
26 sion for production of missiles and missile components

1 may be transferred to appropriations available for the pro-
2 curement of weapons and equipment, to be merged with
3 and to be available for the same time period and the same
4 purposes as the appropriation to which transferred: *Pro-*
5 *vided further*, That the transfer authority provided under
6 this provision is in addition to any other transfer authority
7 contained in this Act.

8 (INCLUDING TRANSFER OF FUNDS)

9 SEC. 8089. Of the amounts appropriated in this Act
10 under the heading "Shipbuilding and Conversion, Navy",
11 \$517,523,000 shall be available until September 30, 2006,
12 to fund prior year shipbuilding cost increases: *Provided*,
13 That upon enactment of this Act, the Secretary of the
14 Navy shall transfer such funds to the following appropria-
15 tions in the amounts specified: *Provided further*, That the
16 amounts transferred shall be merged with and be available
17 for the same purposes as the appropriations to which
18 transferred:

19 To:

20 Under the heading, "Shipbuilding and
21 Conversion, Navy, 1998/2006":

22 New SSN, \$28,000,000.

23 Under the heading, "Shipbuilding and
24 Conversion, Navy, 1999/2006":

25 LPD-17 Amphibious Transport Dock
26 Ship Program, \$95,000,000;

1 New SSN, \$72,000,000.

2 Under the heading, "Shipbuilding and
3 Conversion, Navy, 2000/2006":

4 LPD-17 Amphibious Transport Dock
5 Ship Program, \$94,800,000.

6 Under the heading, "Shipbuilding and
7 Conversion, Navy, 2001/2006":

8 Carrier Replacement Program,
9 \$145,023,000;

10 New SSN, \$82,700,000.

11 SEC. 8090. The Secretary of the Navy may settle,
12 or compromise, and pay any and all admiralty claims
13 under section 7622 of title 10, United States Code arising
14 out of the collision involving the U.S.S. GREENEVILLE
15 and the EHIME MARU, in any amount and without re-
16 gard to the monetary limitations in subsections (a) and
17 (b) of that section: *Provided*, That such payments shall
18 be made from funds available to the Department of the
19 Navy for operation and maintenance.

20 SEC. 8091. Notwithstanding any other provision of
21 law or regulation, the Secretary of Defense may exercise
22 the provisions of section 7403(g) of title 38, United States
23 Code for occupations listed in section 7403(a)(2) of title
24 38, United States Code as well as the following:

1 Pharmacists, Audiologists, and Dental Hygien-
2 ists.

3 (A) The requirements of section
4 7403(g)(1)(A) of title 38, United States Code
5 shall apply.

6 (B) The limitations of section
7 7403(g)(1)(B) of title 38, United States Code
8 shall not apply.

9 SEC. 8092. Funds appropriated by this Act, or made
10 available by the transfer of funds in this Act, for intel-
11 ligence activities are deemed to be specifically authorized
12 by the Congress for purposes of section 504 of the Na-
13 tional Security Act of 1947 (50 U.S.C. 414) during fiscal
14 year 2006 until the enactment of the Intelligence Author-
15 ization Act for fiscal year 2006.

16 SEC. 8093. None of the funds in this Act may be
17 used to initiate a new start program without prior written
18 notification to the Office of Secretary of Defense and the
19 congressional defense committees.

20 SEC. 8094. The amounts appropriated in title II of
21 this Act are hereby reduced by \$250,000,000 to reflect
22 cash balance and rate stabilization adjustments in Depart-
23 ment of Defense Working Capital Funds, as follows:

24 (1) From "Operation and Maintenance, Army",
25 \$100,000,000.

1 (2) From "Operation and Maintenance, Navy",
2 \$50,000,000.

3 (3) From "Operation and Maintenance, Air
4 Force", \$100,000,000.

5 SEC. 8095. (a) In addition to the amounts provided
6 elsewhere in this Act, the amount of \$5,100,000 is hereby
7 appropriated to the Department of Defense for "Oper-
8 ation and Maintenance, Army National Guard". Such
9 amount shall be made available to the Secretary of the
10 Army only to make a grant in the amount of \$5,100,000
11 to the entity specified in subsection (b) to facilitate access
12 by veterans to opportunities for skilled employment in the
13 construction industry.

14 (b) The entity referred to in subsection (a) is the
15 Center for Military Recruitment, Assessment and Vet-
16 erans Employment, a nonprofit labor-management co-op-
17 eration committee provided for by section 302(c)(9) of the
18 Labor-Management Relations Act, 1947 (29 U.S.C.
19 186(c)(9)), for the purposes set forth in section 6(b) of
20 the Labor Management Cooperation Act of 1978 (29
21 U.S.C. 175a note).

22 SEC. 8096. FINANCING AND FIELDING OF KEY ARMY
23 CAPABILITIES.—The Department of Defense and the De-
24 partment of the Army shall make future budgetary and
25 programming plans to fully finance the Non-Line of Sight

1 Future Force cannon and resupply vehicle program
2 (NLOS-C) in order to field this system in fiscal year
3 2010, consistent with the broader plan to field the Future
4 Combat System (FCS) in fiscal year 2010: *Provided*, That
5 if the Army is precluded from fielding the FCS program
6 by fiscal year 2010, then the Army shall develop the
7 NLOS-C independent of the broader FCS development
8 timeline to achieve fielding by fiscal year 2010. In addition
9 the Army will deliver eight (8) combat operational pre-
10 production NLOS-C systems by the end of calendar year
11 2008. These systems shall be in addition to those systems
12 necessary for developmental and operational testing: *Pro-*
13 *vided further*, That the Army shall ensure that budgetary
14 and programmatic plans will provide for no fewer than
15 seven (7) Stryker Brigade Combat Teams.

16 SEC. 8097. Up to \$2,125,000 of the funds appro-
17 priated under the heading "Operation and Maintenance,
18 Navy" in this Act for the Pacific Missile Range Facility
19 may be made available to contract for the repair, mainte-
20 nance, and operation of adjacent off-base water, drainage,
21 and flood control systems, electrical upgrade to support
22 additional missions critical to base operations, and support
23 for a range footprint expansion to further guard against
24 encroachment.

1 SEC. 8098. In addition to the amounts appropriated
2 or otherwise made available elsewhere in this Act,
3 \$33,350,000 is hereby appropriated to the Department of
4 Defense, to remain available until September 30, 2006:
5 *Provided*, That the Secretary of Defense shall make grants
6 in the amounts specified as follows: \$3,850,000 to the In-
7 trepid Sea-Air-Space Foundation; \$1,000,000 to the Pen-
8 tagon Memorial Fund, Inc.; \$4,400,000 to the Center for
9 Applied Science and Technologies at Jordan Valley Inno-
10 vation Center; \$1,000,000 to the Vietnam Veterans Me-
11 morial Fund for the Teach Vietnam initiative; \$500,000
12 to the Westchester County World Trade Center Memorial;
13 \$1,000,000 to the Women in Military Service for America
14 Memorial Foundation; \$2,000,000 to The Presidio Trust;
15 \$500,000 to George Mason University for the Clinic for
16 Legal Assistance to Servicemembers; \$850,000 to the Fort
17 Des Moines Memorial Park and Education Center;
18 \$1,000,000 to the American Civil War Center at Historic
19 Tredegar; \$1,500,000 to the Museum of Flight, American
20 Heroes Collection; \$1,000,000 to the National Guard
21 Youth Foundation; \$2,550,000 to the United Services Or-
22 ganization; \$1,700,000 to the Dwight D. Eisenhower Me-
23 morial Commission; \$1,000,000 to the Iraq Cultural Her-
24 itage Assistance Project; \$1,350,000 to the Pacific Avia-
25 tion Museum-Pearl Harbor; \$1,500,000 to the Red Cross

1 Consolidated Blood Services Facility; \$150,000 to the Tel-
2 luride Adaptive Sports Program; \$4,000,000 to
3 T.H.A.N.K.S USA; \$1,500,000 to the Battleship Texas
4 Foundation to Restore and Preserve the Battleship Texas;
5 and \$1,000,000 to the Pennsylvania Veterans Museum
6 Media Armory.

7 SEC. 8099. Notwithstanding section 2583(a) of title
8 10, United States Code, but subject to the limitations of
9 section 2583(e) of title 10, United States Code, during
10 the current fiscal year the Secretary of the military de-
11 partment concerned may make a military working dog
12 available for adoption by its former handler.

13 SEC. 8100. The budget of the President for fiscal
14 year 2007 submitted to the Congress pursuant to section
15 1105 of title 31, United States Code shall include separate
16 budget justification documents for costs of United States
17 Armed Forces' participation in contingency operations for
18 the Military Personnel accounts, the Operation and Main-
19 tenance accounts, and the Procurement accounts: *Pro-*
20 *vided*, That these documents shall include a description
21 of the funding requested for each contingency operation,
22 for each military service, to include all Active and Reserve
23 components, and for each appropriations account: *Pro-*
24 *vided further*, That these documents shall include esti-
25 mated costs for each element of expense or object class,

1 a reconciliation of increases and decreases for each contin-
2 gency operation, and programmatic data including, but
3 not limited to, troop strength for each Active and Reserve
4 component, and estimates of the major weapons systems
5 deployed in support of each contingency: *Provided further*,
6 That these documents shall include budget exhibits OP-
7 5 and OP-32 (as defined in the Department of Defense
8 Financial Management Regulation) for all contingency op-
9 erations for the budget year and the two preceding fiscal
10 years.

11 SEC. 8101. None of the funds in this Act may be
12 used for research, development, test, evaluation, procure-
13 ment or deployment of nuclear armed interceptors of a
14 missile defense system.

15 SEC. 8102. Of the amounts provided in title II of this
16 Act under the heading, "Operation and Maintenance, De-
17 fense-Wide", \$20,000,000 is available for the Regional
18 Defense Counter-terrorism Fellowship Program, to fund
19 the education and training of foreign military officers,
20 ministry of defense civilians, and other foreign security of-
21 ficials, to include United States military officers and civil-
22 ian officials whose participation directly contributes to the
23 education and training of these foreign students.

24 SEC. 8103. None of the funds appropriated or made
25 available in this Act shall be used to reduce or disestablish

1 the operation of the 53rd Weather Reconnaissance Squad-
2 ron of the Air Force Reserve, if such action would reduce
3 the WC-130 Weather Reconnaissance mission below the
4 levels funded in this Act: *Provided*, That the Air Force
5 shall allow the 53rd Weather Reconnaissance Squadron to
6 perform other missions in support of national defense re-
7 quirements during the non-hurricane season.

8 SEC. 8104. None of the funds provided in this Act
9 shall be available for integration of foreign intelligence in-
10 formation unless the information has been lawfully col-
11 lected and processed during the conduct of authorized for-
12 eign intelligence activities: *Provided*, That information
13 pertaining to United States persons shall only be handled
14 in accordance with protections provided in the Fourth
15 Amendment of the United States Constitution as imple-
16 mented through Executive Order No. 12333.

17 SEC. 8105. (a) From within amounts made available
18 in title II of this Act, under the heading "Operation and
19 Maintenance, Army", and notwithstanding any other pro-
20 vision of law, up to \$7,000,000 shall be available only for
21 repairs and safety improvements to the segment of Fort
22 Irwin Road which extends from Interstate 15 northeast
23 toward the boundary of Fort Irwin, California and the
24 originating intersection of Irwin Road: *Provided*, That
25 these funds shall remain available until expended: *Pro-*

1 *vided further*, That the authorized scope of work includes,
2 but is not limited to, environmental documentation and
3 mitigation, engineering and design, improving safety, re-
4 surfacing, widening lanes, enhancing shoulders, and re-
5 placing signs and pavement markings: *Provided further*,
6 That these funds may be used for advances to the Federal
7 Highway Administration, Department of Transportation,
8 for the authorized scope of work.

9 (b) From within amounts made available in title II
10 of this Act under the heading "Operation and Mainte-
11 nance, Marine Corps", the Secretary of the Navy shall
12 make a grant in the amount of \$4,800,000, notwith-
13 standing any other provision of law, to the City of
14 Twentynine Palms, California, for the widening of off-base
15 Adobe Road, which is used by members of the Marine
16 Corps stationed at the Marine Corps Air Ground Task
17 Force Training Center, Twentynine Palms, California,
18 and their dependents, and for construction of pedestrian
19 and bike lanes for the road, to provide for the safety of
20 the Marines stationed at the installation.

21 SEC. 8106. None of the funds available to the De-
22 partment of Defense may be obligated to modify command
23 and control relationships to give Fleet Forces Command
24 administrative and operational control of U.S. Navy forces
25 assigned to the Pacific fleet: *Provided*, That the command

1 and control relationships which existed on October 1,
2 2004, shall remain in force unless changes are specifically
3 authorized in a subsequent Act.

4 SEC. 8107. (a) At the time members of reserve com-
5 ponents of the Armed Forces are called or ordered to ac-
6 tive duty under section 12302(a) of title 10, United States
7 Code, each member shall be notified in writing of the ex-
8 pected period during which the member will be mobilized.

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

14 (INCLUDING TRANSFER OF FUNDS)

15 SEC. 8108. The Secretary of Defense may transfer
16 funds from any available Department of the Navy appro-
17 priation to any available Navy ship construction appro-
18 priation for the purpose of liquidating necessary changes
19 resulting from inflation, market fluctuations, or rate ad-
20 justments for any ship construction program appropriated
21 in law: *Provided*, That the Secretary may transfer not to
22 exceed \$100,000,000 under the authority provided by this
23 section: *Provided further*, That the funding transferred
24 shall be available for the same time period as the appro-
25 priation to which transferred: *Provided further*, That the
26 Secretary may not transfer any funds until 30 days after

1 the proposed transfer has been reported to the Committees
2 on Appropriations of the Senate and the House of Rep-
3 resentatives, unless sooner notified by the Committees
4 that there is no objection to the proposed transfer: *Pro-*
5 *vided further*, That the transfer authority provided by this
6 section is in addition to any other transfer authority con-
7 tained elsewhere in this Act.

8 SEC. 8109. (a) The total amount appropriated or oth-
9 erwise made available in title II of this Act is hereby re-
10 duced by \$92,000,000 to limit excessive growth in the
11 travel and transportation of persons.

12 (b) The Secretary of Defense shall allocate this re-
13 duction proportionately to each budget activity, activity
14 group, subactivity group, and each program, project, and
15 activity within each applicable appropriation account.

16 SEC. 8110. In addition to funds made available else-
17 where in this Act, \$5,500,000 is hereby appropriated and
18 shall remain available until expended to provide assist-
19 ance, by grant or otherwise (such as, but not limited to,
20 the provision of funds for repairs, maintenance, construc-
21 tion, and/or for the purchase of information technology,
22 text books, teaching resources), to public schools that have
23 unusually high concentrations of special needs military de-
24 pendants enrolled: *Provided*, That in selecting school sys-
25 tems to receive such assistance, special consideration shall

1 be given to school systems in States that are considered
2 overseas assignments, and all schools within these school
3 systems shall be eligible for assistance: *Provided further,*
4 That up to 2 percent of the total appropriated funds under
5 this section shall be available to support the administra-
6 tion and execution of the funds or program and/or events
7 that promote the purpose of this appropriation (e.g. pay-
8 ment of travel and per diem of school teachers attending
9 conferences or a meeting that promotes the purpose of this
10 appropriation and/or consultant fees for on-site training
11 of teachers, staff, or Joint Venture Education Forum
12 (JVEF) Committee members): *Provided further,* That up
13 to \$2,000,000 shall be available for the Department of De-
14 fense to establish a non-profit trust fund to assist in the
15 public-private funding of public school repair and mainte-
16 nance projects, or provide directly to non-profit organiza-
17 tions who in return will use these monies to provide assist-
18 ance in the form of repair, maintenance, or renovation to
19 public school systems that have high concentrations of spe-
20 cial needs military dependents and are located in States
21 that are considered overseas assignments: *Provided fur-*
22 *ther,* That to the extent a Federal agency provides this
23 assistance, by contract, grant, or otherwise, it may accept
24 and expend non-Federal funds in combination with these
25 Federal funds to provide assistance for the authorized

1 purpose, if the non-Federal entity requests such assistance
2 and the non-Federal funds are provided on a reimbursable
3 basis.

4 SEC. 8111. Of the funds appropriated or otherwise
5 made available in this Act, a reduction of \$361,000,000
6 is hereby taken from Title III³ Procurement³ from the fol-
7 lowing accounts in the specified amounts:

8 "Missile Procurement, Army", \$9,000,000;

9 "Other Procurement, Army", \$297,000,000;

10 and

11 "Procurement, Marine Corps", \$55,000,000:

12 *Provided*, That within 30 days of enactment of this Act,
13 the Secretary of the Army and the Secretary of the Navy
14 shall provide a report to the House Committee on Appro-
15 priations and the Senate Committee on Appropriations
16 which describes the application of these reductions to pro-
17 grams, projects or activities within these account³.

18 (INCLUDING TRANSFER OF FUNDS)

19 SEC. 8112. (a) THREE-YEAR EXTENSION.—During
20 the current fiscal year and each of fiscal years 2007 and
21 2008, the Secretary of Defense may transfer not more
22 than \$20,000,000 of unobligated balances remaining in
23 the expiring RDT&E, Army, appropriation account to a
24 current Research, Development, Test and Evaluation,
25 Army, appropriation account to be used only for the con-

1 continuation of the Army Venture Capital Fund demonstra-
2 tion.

3 (b) EXPIRING RDT&E, ARMY, ACCOUNT.—For pur-
4 poses of this section, for any fiscal year, the expiring
5 RDT&E, Army, account is the Research, Development,
6 Test and Evaluation, Army, appropriation account that is
7 then in its last fiscal year of availability for obligation be-
8 fore the account closes under section 1552 of title 31,
9 United States Code.

10 (c) ARMY VENTURE CAPITAL FUND DEMONSTRA-
11 TION.—For purposes of this section, the Army Venture
12 Capital Fund demonstration is the program for which
13 funds were initially provided in section 8150 of the De-
14 partment of Defense Appropriations Act, 2002 (division
15 A of Public Law 107–117; 115 Stat. 2281), as extended
16 and revised in section 8105 of Department of Defense Ap-
17 propriations Act, 2003 (Public Law 107–248; 116 Stat.
18 1562).

19 (d) ADMINISTRATIVE PROVISIONS.—The provisos in
20 section 8105 of the Department of Defense Appropriations
21 Act, 2003 (Public Law 107–248; 116 Stat. 1562), shall
22 apply with respect to amounts transferred under this sec-
23 tion in the same manner as to amounts transferred under
24 that section.

1 SEC. 8113. Of the funds made available in this Act,
2 not less than \$76,100,000 shall be available to maintain
3 an attrition reserve force of 18 B-52 aircraft, of which
4 \$3,900,000 shall be available from "Military Personnel,
5 Air Force", \$44,300,000 shall be available from "Oper-
6 ation and Maintenance, Air Force", and \$27,900,000
7 shall be available from "Aircraft Procurement, Air Force":
8 *Provided*, That the Secretary of the Air Force shall main-
9 tain a total force of 94 B-52 aircraft, including 18 attri-
10 tion reserve aircraft, during fiscal year 2006: *Provided fur-*
11 *ther*, That the Secretary of Defense shall include in the
12 Air Force budget request for fiscal year 2007 amounts
13 sufficient to maintain a B-52 force totaling 94 aircraft.

14 SEC. 8114. The Secretary of the Air Force is author-
15 ized, using funds available under the heading "Operation
16 and Maintenance, Air Force", to complete a phased repair
17 project, which repairs may include upgrades and addi-
18 tions, to the infrastructure of the operational ranges man-
19 aged by the Air Force in Alaska: *Provided*, That the total
20 cost of such phased projects shall not exceed \$32,000,000.

21 SEC. 8115. For purposes of section 612 of title 41,
22 United States Code, any subdivision of appropriations
23 made under the heading "Shipbuilding and Conversion,
24 Navy" that is not closed at the time reimbursement is
25 made shall be available to reimburse the Judgment Fund

1 and shall be considered for the same purposes as any sub-
2 division under the heading "Shipbuilding and Conversion,
3 Navy" appropriations in the current fiscal year or any
4 prior fiscal year.

5 (TRANSFER OF FUNDS)

6 SEC. 8116. Upon enactment of this Act, the Sec-
7 retary of Defense shall make the following transfer of
8 funds: *Provided*, That funds so transferred shall be
9 merged with and shall be available for the same purpose
10 and for the same time period as the appropriation to which
11 transferred: *Provided further*, That the amounts shall be
12 transferred between the following appropriations in the
13 amounts specified:

14 From:

15 Under the heading, "Shipbuilding and
16 Conversion, Navy, 2003/2007":

17 For outfitting, post delivery, conver-
18 sions, and first destination transportation,
19 \$3,300,000;

20 Under the heading, "Shipbuilding and
21 Conversion, Navy, 2004/2008":

22 For outfitting, post delivery, conver-
23 sions, and first destination transportation,
24 \$6,100,000;

25 To:

1 Under the heading, "Shipbuilding and
2 Conversion, Navy, 2003/2007":

3 SSGN, \$3,300,000.

4 Under the heading, "Shipbuilding and
5 Conversion, Navy, 2004/2008":

6 SSGN, \$6,100,000.

7 SEC. 8117. (a) FINDINGS.—The Senate makes the
8 following findings:

9 (1) The Department of Defense Appropriations
10 Act, 2004 (Public Law 108–87), the Department of
11 Defense Appropriations Act, 2005 (Public Law 108–
12 287), and the Emergency Supplemental Appropria-
13 tions Act for Defense, the Global War on Terror,
14 and Tsunami Relief, 2005 (Public Law 109–13)
15 each contain a sense of the Senate provision urging
16 the President to provide in the annual budget re-
17 quests of the President for a fiscal year under sec-
18 tion 1105(a) of title 31, United States Code, an esti-
19 mate of the cost of ongoing military operations in
20 Iraq and Afghanistan in such fiscal year.

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

1 (3) According to the Congressional Research
2 Service, there exists historical precedent for includ-
3 ing the cost of ongoing military operations in the an-
4 nual budget requests of the President following ini-
5 tial funding for such operations by emergency or
6 supplemental appropriations Acts, including—

7 (A) funds for Operation Noble Eagle, be-
8 ginning in the budget request of President
9 George W. Bush for fiscal year 2005;

10 (B) funds for operations in Kosovo, begin-
11 ning in the budget request of President George
12 W. Bush for fiscal year 2001;

13 (C) funds for operations in Bosnia, begin-
14 ning in the budget request of President Clinton
15 for fiscal year 1997;

16 (D) funds for operations in Southwest
17 Asia, beginning in the budget request of Presi-
18 dent Clinton for fiscal year 1997;

19 (E) funds for operations in Vietnam, be-
20 ginning in the budget request of President
21 Johnson for fiscal year 1966; and

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

1 (4) In section 1024(b) of the Emergency Sup-
2 plemental Appropriations Act for Defense, the Glob-
3 al War on Terror, and Tsunami Relief, 2005 (119
4 Stat. 252), the Senate requested that the President
5 submit to Congress, not later than September 1,
6 2005, an amendment to the budget of the President
7 for fiscal year 2006 setting forth detailed cost esti-
8 mates for ongoing military operations overseas dur-
9 ing such fiscal year.

10 (5) The President has yet to submit such an
11 amendment.

12 (6) In February 2005, the Congressional Budg-
13 et Office estimated that fiscal year 2006 cost of on-
14 going military operations in Iraq and Afghanistan
15 could total \$85,000,000,000.

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

18 (1) any request for funds for a fiscal year after
19 fiscal year 2006 for an ongoing military operation
20 overseas, including operations in Afghanistan and
21 Iraq, should be included in the annual budget of the
22 President for such fiscal year as submitted to Con-
23 gress under section 1105(a) of title 31, United
24 States Code;

1 (2) the President should submit a budget re-
2 quest for fiscal year 2006 setting forth estimates for
3 ongoing military operations overseas during such fis-
4 cal year; and

5 (3) any funds provided for a fiscal year for on-
6 going military operations overseas should be pro-
7 vided in appropriations Acts for such fiscal year
8 through appropriations to specific accounts set forth
9 in such appropriations Acts.

10 SEC. 8118. Section 351(a)(3) of the Ronald W.
11 Reagan National Defense Authorization Act for Fiscal
12 Year 2005 (Public Law 108-375; 118 Stat. 1858) is
13 amended by striking "July 31, 2004" and inserting "April
14 1, 2006".

15 SEC. 8119. (a) ~~PROHIBITION ON TRANSFER OF AU-~~
16 ~~THORITY ON TACTICAL UNMANNED AERIAL VEHICLES.~~

17 None of the funds appropriated by this Act may be used
18 to transfer research and development, acquisition, or other
19 program authority relating to current tactical unmanned
20 aerial vehicles (TUAVs) from the Army.

21 (b) ~~EXTENDED RANGE MULTI-PURPOSE UNMANNED~~
22 ~~AERIAL VEHICLES.~~ The Army shall retain responsibility
23 for and operational control of the Extended Range Multi-
24 Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in

1 order to support the Secretary of Defense in matters relat-
2 ing to the employment of unmanned aerial vehicles.

3 SEC. 8120. (a) REPORT.—Not later than February
4 15, 2006, the Secretary of Defense shall submit to the
5 congressional defense committees a report on the status
6 of the review of, and actions taken to implement, the rec-
7 ommendations of the Comptroller General of the United
8 States in the report of the Comptroller General entitled
9 “Military and Veterans Benefits: Enhanced Services
10 Could Improve Transition Assistance for Reserves and
11 National Guard” (GAO 05-544).

12 (b) PARTICULAR INFORMATION.—If the Secretary
13 has determined in the course of the review described in
14 subsection (a) not to implement any recommendation of
15 the Comptroller General described in that subsection, the
16 report under that subsection shall include a justification
17 of such determination.

18 SEC. 8121. (a) The Secretary of the Navy may, sub-
19 ject to the terms and conditions of the Secretary, donate
20 the World War II-era marine railway located at the United
21 States Naval Academy, Annapolis, Maryland, to the Rich-
22 ardson Maritime Heritage Center, Cambridge, Maryland.

23 (b) The marine railway donated under subsection (a)
24 may not be used for commercial purposes.

1 SEC. 8122. The Secretary of Defense may present
2 promotional materials, including a United States flag, to
3 any member of an Active or Reserve component under the
4 Secretary's jurisdiction who, as determined by the Sec-
5 retary, participates in Operation Enduring Freedom or
6 Operation Iraqi Freedom, along with other recognition
7 items in conjunction with any week-long national observa-
8 tion and day of national celebration, if established by
9 Presidential proclamation, for any such members return-
10 ing from such operations.

11 SEC. 8123. Section 8013 of the Department of De-
12 fense Appropriations Act, 1994 (Public Law 103-139;
13 107 Stat. 1440) is amended by striking "the report to the
14 President from the Defense Base Closure and Realign-
15 ment Commission, July 1991" and inserting "the reports
16 to the President from the Defense Base Closure and Re-
17 alignment Commission, July 1991 and July 1993".

18 SEC. 8124. (a) INCREASE IN RATE OF BASIC PAY.—

19 (1) INCREASE.—Footnote 2 to the table on En-
20 listed Members in section 601(b) of the National De-
21 fense Authorization Act for Fiscal Year 2004 (Pub-
22 lic Law 108-136; 37 U.S.C. 1009 note) is amended
23 by striking "or Master Chief Petty Officer of the
24 Coast Guard" and inserting "Master Chief Petty Of-

1 ficer of the Coast Guard, or Senior Enlisted Advisor
2 to the Chairman of the Joint Chiefs of Staff”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall take effect on September 1,
5 2005, and shall apply with respect to months begin-
6 ning on or after that date.

7 (b) PERSONAL MONEY ALLOWANCE.—Section 414(c)
8 of title 37, United States Code, is amended by striking
9 “or the Master Chief Petty Officer of the Coast Guard”
10 and inserting “the Master Chief Petty Officer of the Coast
11 Guard, or the Senior Enlisted Advisor to the Chairman
12 of the Joint Chiefs of Staff”.

13 SEC. 8125. Notwithstanding any other provision of
14 this Act, to reflect savings from revised economic assump-
15 tions the total amount appropriated in title II of this Act
16 is hereby reduced by \$195,260,000, the total amount ap-
17 propriated in title III of this Act is hereby reduced by
18 \$263,875,000, and the total amount appropriated in title
19 IV of this Act is hereby reduced by \$312,165,000: *Pro-*
20 *vided*, That the Secretary of Defense shall allocate this
21 reduction proportionally to each budget activity, activity
22 group, subactivity group, and each program, project, and
23 activity, within each appropriation account.

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- 1 (IV) the Girls Clubs of America;
2 (V) the Young Men's Christian
3 Association;
4 (VI) the Young Women's Chris-
5 tian Association;
6 (VII) the Civil Air Patrol;
7 (VIII) the United States Olympic
8 Committee;
9 (IX) the Special Olympics;
10 (X) Campfire USA;
11 (XI) the Young Marines;
12 (XII) the Naval Sea Cadets
13 Corps;
14 (XIII) 4-H Clubs;
15 (XIV) the Police Athletic League;
16 (XV) Big Brothers—Big Sisters
17 of America; and
18 (XVI) National Guard Youth
19 Challenge.

20 (2) IN GENERAL.—

21 (A) SUPPORT FOR YOUTH ORGANIZA-
22 TIONS.—

23 (i) SUPPORT.—No Federal law (in-
24 cluding any rule, regulation, directive, in-
25 struction, or order) shall be construed to

1 limit any Federal agency from providing
2 any form of support for a youth organiza-
3 tion (including the Boy Scouts of America
4 or any group officially affiliated with the
5 Boy Scouts of America) that would result
6 in that Federal agency providing less sup-
7 port to that youth organization (or any
8 similar organization chartered under the
9 chapter of title 36, United States Code, re-
10 lating to that youth organization) than was
11 provided during the preceding fiscal year.
12 This clause shall be subject to the avail-
13 ability of appropriations.

14 (ii) YOUTH ORGANIZATIONS THAT
15 CEASE TO EXIST.—Clause (i) shall not
16 apply to any youth organization that
17 ceases to exist.

18 (iii) WAIVERS.—The head of a Fed-
19 eral agency may waive the application of
20 clause (i) to any youth organization with
21 respect to each conviction or investigation
22 described under subclause (I) or (II) for a
23 period of not more than 2 fiscal years if—

24 (I) any senior officer (including
25 any member of the board of directors)

1 of the youth organization is convicted
2 of a criminal offense relating to the
3 official duties of that officer or the
4 youth organization is convicted of a
5 criminal offense; or

6 (II) the youth organization is the
7 subject of a criminal investigation re-
8 lating to fraudulent use or waste of
9 Federal funds.

10 (B) TYPES OF SUPPORT.—Support de-
11 scribed under this paragraph shall include—

12 (i) holding meetings, camping events,
13 or other activities on Federal property;

14 (ii) hosting any official event of such
15 organization;

16 (iii) loaning equipment; and

17 (iv) providing personnel services and
18 logistical support.

19 (c) SUPPORT FOR SCOUT JAMBOREES.—

20 (1) FINDINGS.—Congress makes the following
21 findings:

22 (A) Section 8 of article I of the Constitu-
23 tion of the United States commits exclusively to
24 Congress the powers to raise and support ar-
25 mies, provide and maintain a Navy, and make

1 rules for the government and regulation of the
2 land and naval forces.

3 (B) Under those powers conferred by sec-
4 tion 8 of article I of the Constitution of the
5 United States to provide, support, and maintain
6 the Armed Forces, it lies within the discretion
7 of Congress to provide opportunities to train
8 the Armed Forces.

9 (C) The primary purpose of the Armed
10 Forces is to defend our national security and
11 prepare for combat should the need arise.

12 (D) One of the most critical elements in
13 defending the Nation and preparing for combat
14 is training in conditions that simulate the prep-
15 aration, logistics, and leadership required for
16 defense and combat.

17 (E) Support for youth organization events
18 simulates the preparation, logistics, and leader-
19 ship required for defending our national secu-
20 rity and preparing for combat.

21 (F) For example, Boy Scouts of America's
22 National Scout Jamboree is a unique training
23 event for the Armed Forces, as it requires the
24 construction, maintenance, and disassembly of a
25 "tent city" capable of supporting tens of thou-

1 sands of people for a week or longer. Camp-
2 orees at the United States Military Academy
3 for Girl Scouts and Boy Scouts provide similar
4 training opportunities on a smaller scale.

5 (2) SUPPORT.—Section 2554 of title 10, United
6 States Code, is amended by adding at the end the
7 following:

8 “(i)(1) The Secretary of Defense shall provide at
9 least the same level of support under this section for a
10 national or world Boy Scout Jamboree as was provided
11 under this section for the preceding national or world Boy
12 Scout Jamboree.

13 “(2) The Secretary of Defense may waive paragraph
14 (1), if the Secretary—

15 “(A) determines that providing the support sub-
16 ject to paragraph (1) would be detrimental to the
17 national security of the United States; and

18 “(B) reports such a determination to the Con-
19 gress in a timely manner, and before such support
20 is not provided.”.

21 (d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—
22 Section 109 of the Housing and Community Development
23 Act of 1974 (42 U.S.C. 5309) is amended—

24 (1) in the first sentence of subsection (b) by in-
25 serting “or (e)” after “subsection (a)”; and

1 (2) by adding at the end the following:

2 “(e) EQUAL ACCESS:—

3 “(1) DEFINITION.—In this subsection, the term
4 ‘youth organization’ means any organization de-
5 scribed under part B of subtitle II of title 36,
6 United States Code, that is intended to serve indi-
7 viduals under the age of 21 years.

8 “(2) IN GENERAL.—No State or unit of general
9 local government that has a designated open forum,
10 limited public forum, or nonpublic forum and that is
11 a recipient of assistance under this chapter shall
12 deny equal access or a fair opportunity to meet to,
13 or discriminate against, any youth organization, in-
14 cluding the Boy Scouts of America or any group of-
15 ficially affiliated with the Boy Scouts of America,
16 that wishes to conduct a meeting or otherwise par-
17 ticipate in that designated open forum, limited pub-
18 lic forum, or nonpublic forum.”

19 ~~SEC. 8127. (a) From the money in the Treasury not~~
20 ~~otherwise obligated or appropriated, there are appro-~~
21 ~~priated to the Centers for Disease Control and Prevention~~
22 ~~\$3,913,000,000 for activities relating to the avian flu epi-~~
23 ~~demic during the fiscal year ending September 30, 2006~~
24 ~~which shall be available until expended.~~

Top



1 (b) ~~Of the amount appropriated under subsection~~

2 (a) —

3 (1) \$3,080,000,000 shall be for the stockpiling
4 of antivirals and necessary medical supplies;

5 (2) \$33,000,000 shall be for global surveillance
6 relating to avian flu;

7 (3) \$125,000,000 shall be to increase the na-
8 tional investment in domestic vaccine infrastructure
9 including development and research;

10 (4) \$600,000,000 shall be for additional grants
11 to state and local public health agencies for emer-
12 gency preparedness, to increase funding for emer-
13 gency preparedness centers, and to expand hospital
14 surge capacity;

15 (5) \$75,000,000 shall be for risk communica-
16 tion and outreach to providers, businesses, and to
17 the American public;

18 (c) The amount appropriated under subsection (a) —

19 (1) is designated as an emergency requirement
20 pursuant to section 402 of H. Con. Res. 95 (109th
21 Congress); and

22 (2) shall remain available until expended.

23 (d) This section shall take effect on the date of enact-

24 ment of this Act.

1 ~~SEC. 8128. UNIFORM STANDARDS FOR THE INTER-~~
2 ~~ROGATION OF PERSONS UNDER THE DETENTION OF THE~~
3 ~~DEPARTMENT OF DEFENSE. (a) IN GENERAL.—No per-~~
4 ~~son in the custody or under the effective control of the~~
5 ~~Department of Defense or under detention in a Depart-~~
6 ~~ment of Defense facility shall be subject to any treatment~~
7 ~~or technique of interrogation not authorized by and listed~~
8 ~~in the United States Army Field Manual on Intelligence~~
9 ~~Interrogation.~~

10 (b) APPLICABILITY.—Subsection (a) shall not apply
11 to with respect to any person in the custody or under the
12 effective control of the Department of Defense pursuant
13 to a criminal law or immigration law of the United States.

14 (c) CONSTRUCTION.—Nothing in this section shall be
15 construed to affect the rights under the United States
16 Constitution of any person in the custody or under the
17 physical jurisdiction of the United States.

18 ~~SEC. 8129. PROHIBITION ON CRUEL, INHUMAN, OR~~
19 ~~DEGRADING TREATMENT OR PUNISHMENT OF PERSONS~~
20 ~~UNDER CUSTODY OR CONTROL OF THE UNITED STATES~~
21 ~~GOVERNMENT. (a) IN GENERAL.—No individual in the~~
22 ~~custody or under the physical control of the United States~~
23 ~~Government, regardless of nationality or physical location,~~
24 ~~shall be subject to cruel, inhuman, or degrading treatment~~
25 ~~or punishment.~~

1 ~~(b) CONSTRUCTION.—Nothing in this section shall be~~
 2 ~~construed to impose any geographical limitation on the ap-~~
 3 ~~plicability of the prohibition against cruel, inhuman, or de-~~
 4 ~~grading treatment or punishment under this section.~~

5 ~~(c) LIMITATION ON SUPERSEDURE.—The provisions~~
 6 ~~of this section shall not be superseded, except by a provi-~~
 7 ~~sion of law enacted after the date of the enactment of this~~
 8 ~~Act which specifically repeals, modifies, or supersedes the~~
 9 ~~provisions of this section.~~

10 ~~(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT~~
 11 ~~OR PUNISHMENT DEFINED.—In this section, the term~~
 12 ~~“cruel, inhuman, or degrading treatment or punishment”~~
 13 ~~means the cruel, unusual, and inhumane treatment or~~
 14 ~~punishment prohibited by the Fifth, Eighth, and Four-~~
 15 ~~teenth Amendments to the Constitution of the United~~
 16 ~~States, as defined in the United States Reservations, Dec-~~
 17 ~~larations and Understandings to the United Nations Con-~~
 18 ~~vention Against Torture and Other Forms of Cruel, Inhu-~~
 19 ~~man or Degrading Treatment or Punishment done at New~~
 20 ~~York, December 10, 1984.~~

21 ~~SEC 8130. None of the funds provided in this Act~~
 22 ~~may be obligated to realign or relocate forces or oper-~~
 23 ~~ational assets from bases to be converted to enclave status~~
 24 ~~until the Secretary of Defense certifies that he has sought~~
 25 ~~new missions for these bases as mandated by the 2005~~

1 ~~Defense Base Closure and Realignment Commission. *Pro*~~
 2 ~~*vided*, That the Secretary of Defense shall report his find~~
 3 ~~ings to the congressional defense committees not later~~
 4 ~~than October 1, 2006.~~

insert 130 a-b-c-d

TITLE IX

ADDITIONAL APPROPRIATIONS

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

9 For an additional amount for "Military Personnel,
 10 Army", \$4,713,245,000.

MILITARY PERSONNEL, NAVY

12 For an additional amount for "Military Personnel,
 13 Navy", \$144,000,000.

MILITARY PERSONNEL, MARINE CORPS

15 For an additional amount for "Military Personnel,
 16 Marine Corps", \$455,000,000.

MILITARY PERSONNEL, AIR FORCE

18 For an additional amount for "Military Personnel,
 19 Air Force", \$508,000,000.

RESERVE PERSONNEL, ARMY

21 For an additional amount for "Reserve Personnel,
 22 Army", \$138,755,000.

RESERVE PERSONNEL, NAVY

24 For an additional amount for "Reserve Personnel,
 25 Navy", \$10,000,000.

(8127)

1 SEC. _____ REGULATIONS TO CLARIFY GIFT AC-
2 CEPTANCE POLICY FOR SERVICE MEMBERS AND THEIR
3 FAMILIES. (a) REGULATIONS.—The Secretary of Defense
4 shall prescribe regulations to provide that, subject to such
5 limitations as may be specified in such regulations, mem-
6 bers of the Armed Forces described in subsection (c), and
7 the family members of such a member, may accept gifts
8 from non-profit organizations, private parties, and other
9 sources outside the Department of Defense, other than
10 foreign governments and their agents. Such regulations
11 shall apply uniformly to the Army, Navy, Air Force, and
12 Marine Corps, and, to the maximum extent feasible, to
13 the Coast Guard, and shall apply uniformly to the active
14 and reserve components.

15 (b) AUTHORITY.—A member of the Armed Forces de-
16 scribed in subsection (c) may accept gifts as provided in
17 the regulations authorized in subsection (a), notwith-
18 standing section 7353 of title 5, United States Code.

19 (c) COVERED MEMBERS.—A member of the Armed
20 Forces is described in this subsection in the case of a
21 member who is on active duty and who on or after Sep-
22 tember 11, 2001, and while on active duty, incurred an
23 injury or illness—

24 (1) as described in section 1413a(e)(2) of title
25 10, United States Code; or

1 (2) in an operation or area designated as a
2 combat operation or a combat zone, respectively, by
3 the Secretary of Defense in accordance with the reg-
4 ulations prescribed under subsection (a).

5 (d) DEADLINE FOR REGULATIONS.—Regulations
6 under subsection (a) shall be prescribed not later than 90
7 days after the date of the enactment of this Act.

8 (e) RETROACTIVE APPLICABILITY OF REGULA-
9 TIONS.—Regulations under subsection (a) shall, to the ex-
10 tent provided in such regulations, also apply to the accept-
11 ance of gifts during the period beginning on September
12 11, 2001, and ending on the date on which such regula-
13 tions go into effect.

BOC

1 (8128

2 SEC. ____ . Section 106(g) of the Alaska Natural
3 Gas Pipeline Act (15 U.S.C. 720d) is amended by striking
4 "later" and inserting "earlier".

130d

(8129

1 SEC. ____ . The present incumbent Attending Physi-
2 cian at the U.S. Capitol shall be continued on active duty
3 until ten years after the enactment of this Act.

1 NATIONAL GUARD PERSONNEL, ARMY

2 For an additional amount for "National Guard Per-
3 sonnel, Army", \$234,400,000.

4 NATIONAL GUARD PERSONNEL, AIR FORCE

5 For an additional amount for "National Guard Per-
6 sonnel, Air Force", \$3,200,000.

7 OPERATION AND MAINTENANCE

8 OPERATION AND MAINTENANCE, ARMY

9 For an additional amount for "Operation and Main-
10 tenance, Army", \$21,348,886,000.

11 OPERATION AND MAINTENANCE, NAVY

12 For an additional amount for "Operation and Main-
13 tenance, Navy", \$1,810,500,000.

14 OPERATION AND MAINTENANCE, MARINE CORPS

15 For an additional amount for "Operation and Main-
16 tenance, Marine Corps", \$1,833,126,000.

17 OPERATION AND MAINTENANCE, AIR FORCE

18 For an additional amount for "Operation and Main-
19 tenance, Air Force", \$2,483,900,000.

20 OPERATION AND MAINTENANCE, DEFENSE-WIDE

21 For an additional amount for "Operation and Main-
22 tenance, Defense-Wide", \$805,000,000, of which up to
23 \$195,000,000, to remain available until expended, may be
24 used for payments to reimburse Pakistan, Jordan, and
25 other key cooperating nations, for logistical, military, and

1 other support provided, or to be provided, to United States
2 military operations, notwithstanding any other provision
3 of law: *Provided*, That such payments may be made in
4 such amounts as the Secretary of Defense, with the con-
5 currence of the Secretary of State, and in consultation
6 with the Director of the Office of Management and Budg-
7 et, may determine, in his discretion, based on documenta-
8 tion determined by the Secretary of Defense to adequately
9 account for the support provided, and such determination
10 is final and conclusive upon the accounting officers of the
11 United States, and 15 days following notification to the
12 appropriate congressional committees: *Provided further*,
13 That the Secretary of Defense shall provide quarterly re-
14 ports to the congressional defense committees on the use
15 of funds provided in this paragraph.

16 OPERATION AND MAINTENANCE, ARMY RESERVE

17 For an additional amount for "Operation and Main-
18 tenance, Army Reserve", \$48,200,000.

19 OPERATION AND MAINTENANCE, NAVY RESERVE

20 For an additional amount for "Operation and Main-
21 tenance, Navy Reserve", \$6,400,000.

22 OPERATION AND MAINTENANCE, MARINE CORPS

23 RESERVE

24 For an additional amount for "Operation and Main-
25 tenance, Marine Corps Reserve", \$27,950,000.

1 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

2 For an additional amount for "Operation and Main-
3 tenance, Air Force Reserve", \$5,000,000.

4 OPERATION AND MAINTENANCE, ARMY NATIONAL
5 GUARD

6 For an additional amount for "Operation and Main-
7 tenance, Army National Guard", \$183,000,000.

8 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

9 For an additional amount for "Operation and Main-
10 tenance, Air National Guard", \$7,200,000.

11 IRAQ FREEDOM FUND

12 (INCLUDING TRANSFER OF FUNDS)

13 For an additional amount for "Iraq Freedom Fund",
14 \$4,658,686,000, to remain available for transfer until
15 September 30, 2007, only to support operations in Iraq
16 or Afghanistan and classified activities: *Provided*, That the
17 Secretary of Defense may transfer the funds provided
18 herein to appropriations for military personnel; operation
19 and maintenance; Overseas Humanitarian, Disaster, and
20 Civic Aid; procurement; research, development, test and
21 evaluation; and working capital funds: *Provided further*,
22 That of the amounts provided under this heading,
23 \$3,048,686,000 shall only be for classified programs, de-
24 scribed in further detail in the classified annex accom-
25 panying this Act: *Provided further*, That up to

1 \$100,000,000 shall be available for the Department of
2 Homeland Security, "United States Coast Guard, Oper-
3 ating Expenses": *Provided further*, That not less than
4 \$1,360,000,000 shall be available for the Joint IED De-
5 feat Task Force: *Provided further*, That funds transferred
6 shall be merged with and be available for the same pur-
7 poses and for the same time period as the appropriation
8 or fund to which transferred: *Provided further*, That this
9 transfer authority is in addition to any other transfer au-
10 thority available to the Department of Defense: *Provided*
11 *further*, That upon a determination that all or part of the
12 funds transferred from this appropriation are not nec-
13 essary for the purposes provided herein, such amounts
14 may be transferred back to this appropriation: *Provided*
15 *further*, That the Secretary of Defense shall, not fewer
16 than 5 days prior to making transfers from this appropria-
17 tion, notify the congressional defense committees in writ-
18 ing of the details of any such transfer: *Provided further*,
19 That the Secretary shall submit a report no later than
20 30 days after the end of each fiscal quarter to the congres-
21 sional defense committees summarizing the details of the
22 transfer of funds from this appropriation.

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1 PROCUREMENT

2 AIRCRAFT PROCUREMENT, ARMY

3 For an additional amount for "Aircraft Procurement,
4 Army", \$232,100,000, to remain available until Sep-
5 tember 30, 2008.

6 MISSILE PROCUREMENT, ARMY

7 For an additional amount for "Missile Procurement,
8 Army", \$55,000,000, to remain available until September
9 30, 2008.

10 PROCUREMENT OF WEAPONS AND TRACKED COMBAT

11 VEHICLES, ARMY

12 For an additional amount for "Procurement of Weap-
13 ons and Tracked Combat Vehicles, Army", \$860,190,000,
14 to remain available until September 30, 2008.

15 PROCUREMENT OF AMMUNITION, ARMY

16 For an additional amount for "Procurement of Am-
17 muniton, Army", \$273,000,000, to remain available until
18 September 30, 2008.

19 OTHER PROCUREMENT, ARMY

20 For an additional amount for "Other Procurement,
21 Army", \$3,174,900,000, to remain available until Sep-
22 tember 30, 2008.

1 AIRCRAFT PROCUREMENT, NAVY

2 For an additional amount for "Aircraft Procurement,
3 Navy", \$138,837,000, to remain available until September
4 30, 2008.

5 WEAPONS PROCUREMENT, NAVY

6 For an additional amount for "Weapons Procure-
7 ment, Navy", \$116,900,000, to remain available until
8 September 30, 2008.

9 PROCUREMENT OF AMMUNITION, NAVY AND MARINE

10 CORPS

11 For an additional amount for "Procurement of Am-
12 munition, Navy and Marine Corps", \$38,885,000, to re-
13 main available until September 30, 2008.

14 OTHER PROCUREMENT, NAVY

15 For an additional amount for "Other Procurement,
16 Navy", \$49,100,000, to remain available until September
17 30, 2008.

18 PROCUREMENT, MARINE CORPS

19 For an additional amount for "Procurement, Marine
20 Corps", \$1,710,145,000, to remain available until Sep-
21 tember 30, 2008.

22 AIRCRAFT PROCUREMENT, AIR FORCE

23 For an additional amount for "Aircraft Procurement,
24 Air Force", \$115,300,000, to remain available until Sep-
25 tember 30, 2008.

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1 MISSILE PROCUREMENT, AIR FORCE

2 For an additional amount for "Missile Procurement,
3 Air Force", \$17,000,000, to remain available until Sep-
4 tember 30, 2008.

5 OTHER PROCUREMENT, AIR FORCE

6 For an additional amount for "Other Procurement,
7 Air Force", \$17,500,000, to remain available until Sep-
8 tember 30, 2008.

9 PROCUREMENT, DEFENSE-WIDE

10 For an additional amount for "Procurement, De-
11 fense-Wide", \$182,075,000, to remain available until Sep-
12 tember 30, 2008.

13 NATIONAL GUARD AND RESERVE EQUIPMENT

14 For an additional amount for "National Guard and
15 Reserve Equipment", \$1,000,000,000, to remain available
16 until September 30, 2008.

17 RESEARCH, DEVELOPMENT, TEST AND

18 EVALUATION

19 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,

20 ARMY

21 For an additional amount for "Research, Develop-
22 ment, Test and Evaluation, Army", \$13,100,000, to re-
23 main available until September, 30, 2007.

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1 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
2 AIR FORCE

3 For an additional amount for "Research, Develop-
4 ment, Test and Evaluation, Air Force", \$12,500,000, to
5 remain available until September, 30, 2007.

6 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
7 DEFENSE-WIDE

8 For an additional amount for "Research, Develop-
9 ment, Test and Evaluation, Defense-Wide", \$25,000,000,
10 to remain available until September 30, 2007.

11 REVOLVING AND MANAGEMENT FUNDS

12 DEFENSE WORKING CAPITAL FUNDS

13 For an additional amount for "Defense Working
14 Capital Funds", \$2,516,400,000.

15 OTHER DEPARTMENT OF DEFENSE PROGRAMS

16 DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES,
17 DEFENSE

18 For an additional amount for "Drug Interdiction and
19 Counter-drug Activities, Defense", \$27,620,000.

20 GENERAL PROVISIONS

21 SEC. 9001. Appropriations provided in this title are
22 available for obligation until September 30, 2006, unless
23 otherwise so provided in this title.

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

4 (TRANSFER OF FUNDS)

5 SEC. 9003. Upon his determination that such action
6 is necessary in the national interest, the Secretary of De-
7 fense may transfer between appropriations up to
8 \$2,500,000,000 of the funds made available to the De-
9 partment of Defense in this title: *Provided*, That the Sec-
10 retary shall notify the Congress promptly of each transfer
11 made pursuant to the authority in this section: *Provided*
12 *further*, That the authority provided in this section is in
13 addition to any other transfer authority available to the
14 Department of Defense and is subject to the same terms
15 and conditions as the authority provided in section 8005
16 of this Act.

17 SEC. 9004. Funds appropriated in this title, or made
18 available by the transfer of funds in or pursuant to this
19 title, for intelligence activities are deemed to be specifically
20 authorized by the Congress for purposes of section 504
21 of the National Security Act of 1947 (50 U.S.C. 414).

22 SEC. 9005. None of the funds provided in this title
23 may be used to finance programs or activities denied by
24 Congress in fiscal years 2005 or 2006 appropriations to
25 the Department of Defense or to initiate a procurement
26 or research, development, test and evaluation new start

1 program without prior written notification to the congres-
2 sional defense committees.

3 SEC. 9006. Notwithstanding any other provision of
4 law, of the funds made available in this title to the Depart-
5 ment of Defense for operation and maintenance, not to
6 exceed \$500,000,000 may be used by the Secretary of De-
7 fense, with the concurrence of the Secretary of State, to
8 train, equip and provide related assistance only to military
9 or security forces of Iraq and Afghanistan to enhance their
10 capability to combat terrorism and to support United
11 States military operations in Iraq and Afghanistan: *Pro-*
12 *vided*, That such assistance may include the provision of
13 equipment, supplies, services, training, and funding: *Pro-*
14 *vided further*, That the authority to provide assistance
15 under this section is in addition to any other authority
16 to provide assistance to foreign nations: *Provided further*,
17 That the Secretary of Defense shall notify the congres-
18 sional defense committees, the Committee on International
19 Relations of the House of Representatives, and the Com-
20 mittee on Foreign Relations of the Senate not less than
21 15 days before providing assistance under the authority
22 of this section.

23 SEC. 9007. (a) From funds made available in this
24 title to the Department of Defense, not to exceed
25 \$500,000,000 may be used, notwithstanding any other

1 provision of law, to fund the Commander's Emergency Re-
2 sponse Program, for the purpose of enabling military com-
3 manders in Iraq to respond to urgent humanitarian relief
4 and reconstruction requirements within their areas of re-
5 sponsibility by carrying out programs that will imme-
6 diately assist the Iraqi people, and to fund a similar pro-
7 gram to assist the people of Afghanistan.

8 (b) QUARTERLY REPORTS.—Not later than 15 days
9 after the end of each fiscal year quarter (beginning with
10 the first quarter of fiscal year 2006), the Secretary of De-
11 fense shall submit to the congressional defense committees
12 a report regarding the source of funds and the allocation
13 and use of funds during that quarter that were made
14 available pursuant to the authority provided in this section
15 or under any other provision of law for the purposes of
16 the programs under subsection (a).

17 SEC. 9008. Amounts provided in this title for oper-
18 ations in Iraq and Afghanistan may be used by the De-
19 partment of Defense for the purchase of up to 20 heavy
20 and light armored vehicles for force protection purposes,
21 notwithstanding price or other limitations specified else-
22 where in this Act, or any other provision of law: *Provided,*
23 That the Secretary of Defense shall submit a report in
24 writing no later than 30 days after the end of each fiscal
25 quarter notifying the congressional defense committees of

1 any purchase described in this section, including the cost,
2 purposes, and quantities of vehicles purchased.

3 SEC. 9009. During the current fiscal year, funds
4 available to the Department of Defense for operation and
5 maintenance may be used, notwithstanding any other pro-
6 vision of law, to provide supplies, services, transportation,
7 including airlift and sealift, and other logistical support
8 to coalition forces supporting military and stability oper-
9 ations in Iraq and Afghanistan: *Provided*, That the Sec-
10 retary of Defense shall provide quarterly reports to the
11 congressional defense committees regarding support pro-
12 vided under this section.

13 SEC. 9010. (a) Not later than 60 days after the date
14 of the enactment of this Act and every 90 days thereafter
15 through the end of fiscal year 2006, the Secretary of De-
16 fense shall set forth in a report to Congress a comprehen-
17 sive set of performance indicators and measures for
18 progress toward military and political stability in Iraq.

19 (b) The report shall include performance standards
20 and goals for security, economic, and security force train-
21 ing objectives in Iraq together with a notional timetable
22 for achieving these goals.

23 (c) In specific, the report requires, at a minimum,
24 the following:

1 (1) With respect to stability and security in
2 Iraq, the following:

3 (A) Key measures of political stability, in-
4 cluding the important political milestones that
5 must be achieved over the next several years.

6 (B) The primary indicators of a stable se-
7 curity environment in Iraq, such as number of
8 engagements per day, numbers of trained Iraqi
9 forces, and trends relating to numbers and
10 types of ethnic and religious-based hostile en-
11 counters.

12 (C) An assessment of the estimated
13 strength of the insurgency in Iraq and the ex-
14 tent to which it is composed of non-Iraqi fight-
15 ers.

16 (D) A description of all militias operating
17 in Iraq, including the number, size, equipment
18 strength, military effectiveness, sources of sup-
19 port, legal status, and efforts to disarm or re-
20 integrate each militia.

21 (E) Key indicators of economic activity
22 that should be considered the most important
23 for determining the prospects of stability in
24 Iraq, including—

25 (i) unemployment levels;

1 (ii) electricity, water, and oil produc-
2 tion rates; and

3 (iii) hunger and poverty levels.

4 (F) The criteria the Administration will
5 use to determine when it is safe to begin with-
6 drawing United States forces from Iraq.

7 (2) With respect to the training and perform-
8 ance of security forces in Iraq, the following:

9 (A) The training provided Iraqi military
10 and other Ministry of Defense forces and the
11 equipment used by such forces.

12 (B) Key criteria for assessing the capabili-
13 ties and readiness of the Iraqi military and
14 other Ministry of Defense forces, goals for
15 achieving certain capability and readiness levels
16 (as well as for recruiting, training, and equip-
17 ping these forces), and the milestones and no-
18 tional timetable for achieving these goals.

19 (C) The operational readiness status of the
20 Iraqi military forces, including the type, num-
21 ber, size, and organizational structure of Iraqi
22 battalions that are—

23 (i) capable of conducting
24 counterinsurgency operations independ-
25 ently;

- 1 (ii) capable of conducting
2 counterinsurgency operations with the sup-
3 port of United States or coalition forces; or
4 (iii) not ready to conduct
5 counterinsurgency operations.

6 (D) The rates of absenteeism in the Iraqi
7 military forces and the extent to which insur-
8 gents have infiltrated such forces.

9 (E) The training provided Iraqi police and
10 other Ministry of Interior forces and the equip-
11 ment used by such forces.

12 (F) Key criteria for assessing the capabili-
13 ties and readiness of the Iraqi police and other
14 Ministry of Interior forces, goals for achieving
15 certain capability and readiness levels (as well
16 as for recruiting, training, and equipping), and
17 the milestones and notional timetable for
18 achieving these goals, including—

19 (i) the number of police recruits that
20 have received classroom training and the
21 duration of such instruction;

22 (ii) the number of veteran police offi-
23 cers who have received classroom instruc-
24 tion and the duration of such instruction;

1 (iii) the number of police candidates
2 screened by the Iraqi Police Screening
3 Service, the number of candidates derived
4 from other entry procedures, and the suc-
5 cess rates of those groups of candidates;

6 (iv) the number of Iraqi police forces
7 who have received field training by inter-
8 national police trainers and the duration of
9 such instruction; and

10 (v) attrition rates and measures of ab-
11 senteeism and infiltration by insurgents.

12 (G) The estimated total number of Iraqi
13 battalions needed for the Iraqi security forces
14 to perform duties now being undertaken by coa-
15 lition forces, including defending the borders of
16 Iraq and providing adequate levels of law and
17 order throughout Iraq.

18 (H) The effectiveness of the Iraqi military
19 and police officer cadres and the chain of com-
20 mand.

21 (I) The number of United States and coali-
22 tion advisors needed to support the Iraqi secu-
23 rity forces and associated ministries.

24 (J) An assessment, in a classified annex if
25 necessary, of United States military require-

1 ments, including planned force rotations,
2 through the end of calendar year 2006.

3 ~~SEC. 9011. Congress, consistent with international~~
4 ~~and United States law, reaffirms that torture of prisoners~~
5 ~~of war and detainees is illegal and does not reflect the~~
6 ~~policies of the United States Government or the values of~~
7 ~~the people of the United States.~~

8 ~~SEC. 9012. None of the funds made available in this~~
9 ~~Act may be used in contravention of the following laws~~
10 ~~enacted or regulations promulgated to implement the~~
11 ~~United Nations Convention Against Torture and Other~~
12 ~~Cruel, Inhuman or Degrading Treatment or Punishment~~
13 ~~(done at New York on December 10, 1984):~~

14 (1) Section 2340A of title 18, United States
15 Code.

16 (2) Section 2242 of the Foreign Affairs Reform
17 and Restructuring Act of 1998 (division G of Public
18 Law 105-277; 112 Stat. 2681-822; 8 U.S.C. 1231
19 note) and any regulations prescribed thereto, includ-
20 ing regulations under part 208 of title 8, Code of
21 Federal Regulations, and part 95 of title 22, Code
22 of Federal Regulations.

23 ~~SEC. 9013.~~ ¹⁹⁰¹¹ Supervision and administration costs as-
24 sociated with a construction project funded with appro-
25 priations available for operation and maintenance, and ex-

1 ecuted in direct support of the Global War on Terrorism
 2 only in Iraq and Afghanistan, may be obligated at the time
 3 a construction contract is awarded: *Provided*, That for the
 4 purpose of this section, supervision and administration
 5 costs include all in-house Government costs.

(9012)

6 SEC. ~~9014~~. Amounts appropriated or otherwise made
 7 available in this title are designated as making appropria-
 8 tions for contingency operations related to the global war
 9 on terrorism pursuant to section 402 of H. Con. Res. 95
 10 (109th Congress), the concurrent resolution on the budget
 11 for fiscal year 2006.

12 This ~~Act~~ may be cited as the "Department of Defense
 13 Appropriations Act, 2006".

DIVISION
 (1c)

INSERT
 148A - 148P

1 **TITLE X—MATTERS RELATING**
2 **TO DETAINEES**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “Detainee Treatment
5 Act of 2005”.

6 **SEC. 1002. UNIFORM STANDARDS FOR THE INTERROGA-**
7 **TION OF PERSONS UNDER THE DETENTION**
8 **OF THE DEPARTMENT OF DEFENSE.**

9 (a) **IN GENERAL.**—No person in the custody or under
10 the effective control of the Department of Defense or
11 under detention in a Department of Defense facility shall
12 be subject to any treatment or technique of interrogation
13 not authorized by and listed in the United States Army
14 Field Manual on Intelligence Interrogation.

15 (b) **APPLICABILITY.**—Subsection (a) shall not apply
16 with respect to any person in the custody or under the
17 effective control of the Department of Defense pursuant
18 to a criminal law or immigration law of the United States.

19 (c) **CONSTRUCTION.**—Nothing in this section shall be
20 construed to affect the rights under the United States
21 Constitution of any person in the custody or under the
22 physical jurisdiction of the United States.

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1 **SEC. 1003. PROHIBITION ON CRUEL, INHUMAN, OR DE-**
2 **GRADING TREATMENT OR PUNISHMENT OF**
3 **PERSONS UNDER CUSTODY OR CONTROL OF**
4 **THE UNITED STATES GOVERNMENT.**

5 (a) IN GENERAL.—No individual in the custody or
6 under the physical control of the United States Govern-
7 ment, regardless of nationality or physical location, shall
8 be subject to cruel, inhuman, or degrading treatment or
9 punishment.

10 (b) CONSTRUCTION.—Nothing in this section shall be
11 construed to impose any geographical limitation on the ap-
12 plicability of the prohibition against cruel, inhuman, or de-
13 grading treatment or punishment under this section.

14 (c) LIMITATION ON SUPERSEDURE.—The provisions
15 of this section shall not be superseded, except by a provi-
16 sion of law enacted after the date of the enactment of this
17 Act which specifically repeals, modifies, or supersedes the
18 provisions of this section.

19 (d) CRUEL, INHUMAN, OR DEGRADING TREATMENT
20 OR PUNISHMENT DEFINED.—In this section, the term
21 “cruel, inhuman, or degrading treatment or punishment”
22 means the cruel, unusual, and inhumane treatment or
23 punishment prohibited by the Fifth, Eighth, and Four-
24 teenth Amendments to the Constitution of the United
25 States, as defined in the United States Reservations, Dec-
26 larations and Understandings to the United Nations Con-

1 vention Against Torture and Other Forms of Cruel, Inhu-
2 man or Degrading Treatment or Punishment done at New
3 York, December 10, 1984.

4 **SEC. 1004. PROTECTION OF UNITED STATES GOVERNMENT**
5 **PERSONNEL ENGAGED IN AUTHORIZED IN-**
6 **TERROGATIONS.**

7 (a) PROTECTION OF UNITED STATES GOVERNMENT
8 PERSONNEL.—In any civil action or criminal prosecution
9 against an officer, employee, member of the Armed
10 Forces, or other agent of the United States Government
11 who is a United States person, arising out of the officer,
12 employee, member of the Armed Forces, or other agent's
13 engaging in specific operational practices, that involve de-
14 tention and interrogation of aliens who the President or
15 his designees have determined are believed to be engaged
16 in or associated with international terrorist activity that
17 poses a serious, continuing threat to the United States,
18 its interests, or its allies, and that were officially author-
19 ized and determined to be lawful at the time that they
20 were conducted, it shall be a defense that such officer, em-
21 ployee, member of the Armed Forces, or other agent did
22 not know that the practices were unlawful and a person
23 of ordinary sense and understanding would not know the
24 practices were unlawful. Good faith reliance on advice of
25 counsel should be an important factor, among others, to

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1 consider in assessing whether a person of ordinary sense
 2 and understanding would have known the practices to be
 3 unlawful. Nothing in this section shall be construed to
 4 limit or extinguish any defense or protection otherwise
 5 available to any person or entity from suit, civil or criminal
 6 liability, or damages, or to provide immunity from pros-
 7 ecution for any criminal offense by the proper authorities.

8 (b) COUNSEL.—The United States Government may
 9 provide or employ counsel, and pay counsel fees, court
 10 costs, bail, and other expenses incident to the representa-
 11 tion of an officer, employee, member of the Armed Forces,
 12 or other agent described in subsection (b), with respect (a)
 13 to any civil action or criminal prosecution arising out of
 14 practices described in that subsection, under the same con-
 15 ditions, and to the same extent, to which such services
 16 and payments are authorized under section 1037 of title
 17 10, United States Code.

18 **SEC. 1005. PROCEDURES FOR STATUS REVIEW OF DETAIN-**
 19 **EES OUTSIDE THE UNITED STATES.**

20 (a) SUBMITTAL OF PROCEDURES FOR STATUS RE-
 21 VIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND
 22 IN AFGHANISTAN AND IRAQ.—

23 (1) IN GENERAL.—Not later than 180 days
 24 after the date of the enactment of this Act, the Sec-
 25 retary of Defense shall submit to the Committee on

1 Armed Services and the Committee on the Judiciary
2 of the Senate and the Committee on Armed Services
3 and the Committee on the Judiciary of the House of
4 Representatives a report setting forth—

5 (A) the procedures of the Combatant Sta-
6 tus Review Tribunals and the Administrative
7 Review Boards established by direction of the
8 Secretary of Defense that are in operation at
9 Guantanamo Bay, Cuba, for determining the
10 status of the detainees held at Guantanamo
11 Bay or to provide an annual review to deter-
12 mine the need to continue to detain an alien
13 who is a detainee; and

14 (B) the procedures in operation in Afghan-
15 istan and Iraq for a determination of the status
16 of aliens detained in the custody or under the
17 physical control of the Department of Defense
18 in those countries.

19 (2) DESIGNATED CIVILIAN OFFICIAL.—The pro-
20 cedures submitted to Congress pursuant to para-
21 graph (1)(A) shall ensure that the official of the De-
22 partment of Defense who is designated by the Presi-
23 dent or Secretary of Defense to be the final review
24 authority within the Department of Defense with re-
25 spect to decisions of any such tribunal or board (re-

1 ferred to as the "Designated Civilian Official") shall
2 be a civilian officer of the Department of Defense
3 holding an office to which appointments are required
4 by law to be made by the President, by and with the
5 advice and consent of the Senate.

6 (3) CONSIDERATION OF NEW EVIDENCE.—The
7 procedures submitted under paragraph (1)(A) shall
8 provide for periodic review of any new evidence that
9 may become available relating to the enemy combat-
10 ant status of a detainee.

11 (b) CONSIDERATION OF STATEMENTS DERIVED
12 WITH COERCION.—

13 (1) ASSESSMENT.—The procedures submitted
14 to Congress pursuant to subsection (a)(1)(A) shall
15 ensure that a Combatant Status Review Tribunal or
16 Administrative Review Board, or any similar or suc-
17 cessor administrative tribunal or board, in making a
18 determination of status or disposition of any de-
19 tainee under such procedures, shall, to the extent
20 practicable, assess—

21 (A) whether any statement derived from or
22 relating to such detainee was obtained as a re-
23 sult of coercion; and

24 (B) the probative value (if any) of any
25 such statement.

1 (2) APPLICABILITY.—Paragraph (1) applies
2 with respect to any proceeding beginning on or after
3 the date of the enactment of this Act.

4 (c) REPORT ON MODIFICATION OF PROCEDURES.—

5 The Secretary of Defense shall submit to the committees
6 specified in subsection (a)(1) a report on any modification
7 of the procedures submitted under subsection (a). Any
8 such report shall be submitted not later than 60 days be-
9 fore the date on which such modification goes into effect.

10 (d) ANNUAL REPORT.—

11 (1) REPORT REQUIRED.—The Secretary of De-
12 fense shall submit to Congress an annual report on
13 the annual review process for aliens in the custody
14 of the Department of Defense outside the United
15 States. Each such report shall be submitted in un-
16 classified form, with a classified annex, if necessary.
17 The report shall be submitted not later than Decem-
18 ber 31 each year.

19 (2) ELEMENTS OF REPORT.—Each such report
20 shall include the following with respect to the year
21 covered by the report:

22 (A) The number of detainees whose status
23 was reviewed.

24 (B) The procedures used at each location.

1 (e) JUDICIAL REVIEW OF DETENTION OF ENEMY
2 COMBATANTS.—

3 (1) IN GENERAL.—Section 2241 of title 28,
4 United States Code, is amended by adding at the
5 end the following:

6 “(e) Except as provided in section 1005 of the De-
7 tainee Treatment Act of 2005, no court, justice, or judge
8 shall have jurisdiction to hear or consider—

9 “(1) an application for a writ of habeas corpus
10 filed by or on behalf of an alien detained by the De-
11 partment of Defense at Guantanamo Bay, Cuba; or

12 “(2) any other action against the United States
13 or its agents relating to any aspect of the detention
14 by the Department of Defense of an alien at Guan-
15 tanamo Bay, Cuba, who—

16 “(A) is currently in military custody; or

17 “(B) has been determined by the United
18 States Court of Appeals for the District of Co-
19 lumbia Circuit in accordance with the proce-
20 dures set forth in section 1005(e) of the De-
21 tainee Treatment Act of 2005 to have been
22 properly detained as an enemy combatant.”.

23 (2) REVIEW OF DECISIONS OF COMBATANT STA-
24 TUS REVIEW TRIBUNALS OF PROPRIETY OF DETEN-
25 TION.—

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1 (A) IN GENERAL.—Subject to subpara-
2 graphs (B), (C), and (D), the United States
3 Court of Appeals for the District of Columbia
4 Circuit shall have exclusive jurisdiction to deter-
5 mine the validity of any final decision of a Com-
6 batant Status Review Tribunal that an alien is
7 properly detained as an enemy combatant.

8 (B) LIMITATION ON CLAIMS.—The juris-
9 diction of the United States Court of Appeals
10 for the District of Columbia Circuit under this
11 paragraph shall be limited to claims brought by
12 or on behalf of an alien—

13 (i) who is, at the time a request for
14 review by such court is filed, detained by
15 the Department of Defense at Guanta-
16 namo Bay, Cuba; and

17 (ii) for whom a Combatant Status Re-
18 view Tribunal has been conducted, pursu-
19 ant to applicable procedures specified by
20 the Secretary of Defense.

21 (C) SCOPE OF REVIEW.—The jurisdiction
22 of the United States Court of Appeals for the
23 District of Columbia Circuit on any claims with
24 respect to an alien under this paragraph shall
25 be limited to the consideration of—

1 (i) whether the status determination
2 of the Combatant Status Review Tribunal
3 with regard to such alien was consistent
4 with the standards and procedures speci-
5 fied by the Secretary of Defense for Com-
6 batant Status Review Tribunals (including
7 the requirement that the conclusion of the
8 Tribunal be supported by a preponderance
9 of the evidence and allowing a rebuttable
10 presumption in favor the Government's evi-
11 dence); and

(of)

12 (ii) to the extent the Constitution and
13 laws of the United States are applicable,
14 whether the use of such standards and
15 procedures to make the determination is
16 consistent with the Constitution and laws
17 of the United States.

18 (D) TERMINATION ON RELEASE FROM
19 CUSTODY.—The jurisdiction of the United
20 States Court of Appeals for the District of Co-
21 lumbia Circuit with respect to the claims of an
22 alien under this paragraph shall cease upon the
23 release of such alien from the custody of the
24 Department of Defense.

1 (3) REVIEW OF FINAL DECISIONS OF MILITARY
2 COMMISSIONS.—

3 (A) IN GENERAL.—Subject to subpara-
4 graphs (B), (C), and (D), the United States
5 Court of Appeals for the District of Columbia
6 Circuit shall have exclusive jurisdiction to deter-
7 mine the validity of any final decision rendered
8 pursuant to Military Commission Order No. 1,
9 dated August 31, 2005 (or any successor mili-
10 tary order).

11 (B) GRANT OF REVIEW.—Review under
12 this paragraph—

13 (i) with respect to a capital case or a
14 case in which the alien was sentenced to a
15 term of imprisonment of 10 years or more,
16 shall be as of right; or

17 (ii) with respect to any other case,
18 shall be at the discretion of the United
19 States Court of Appeals for the District of
20 Columbia Circuit.

21 (C) LIMITATION ON APPEALS.—The juris-
22 diction of the United States Court of Appeals
23 for the District of Columbia Circuit under this
24 paragraph shall be limited to an appeal brought
25 by or on behalf of an alien—

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1 (i) who was, at the time of the pro-
2 ceedings pursuant to the military order re-
3 ferred to in subparagraph (A), detained by
4 the Department of Defense at Guanta-
5 namo Bay, Cuba; and

6 (ii) for whom a final decision has been
7 rendered pursuant to such military order.

8 (D) SCOPE OF REVIEW.—The jurisdiction
9 of the United States Court of Appeals for the
10 District of Columbia Circuit on an appeal of a
11 final decision with respect to an alien under
12 this paragraph shall be limited to the consider-
13 ation of—

14 (i) whether the final decision was con-
15 sistent with the standards and procedures
16 specified in the military order referred to
17 in subparagraph (A); and

18 (ii) to the extent the Constitution and
19 laws of the United States are applicable,
20 whether the use of such standards and
21 procedures to reach the final decision is
22 consistent with the Constitution and laws
23 of the United States.

24 (4) RESPONDENT.—The Secretary of Defense
25 shall be the named respondent in any appeal to the

1 United States Court of Appeals for the District of
2 Columbia Circuit under this subsection.

3 (f) CONSTRUCTION.—Nothing in this section shall be
4 construed to confer any constitutional right on an alien
5 detained as an enemy combatant outside the United
6 States.

7 (g) UNITED STATES DEFINED.—For purposes of this
8 section, the term “United States”, when used in a geo-
9 graphic sense, is as defined in section 101(a)(38) of the
10 Immigration and Nationality Act and, in particular, does
11 not include the United States Naval Station, Guantanamo
12 Bay, Cuba.

13 (h) EFFECTIVE DATE.—

14 (1) IN GENERAL.—This section shall take effect
15 on the date of the enactment of this Act.

16 (2) REVIEW OF COMBATANT STATUS TRIBUNAL
17 AND MILITARY COMMISSION DECISIONS.—Para-
18 graphs (2) and (3) of subsection (e) shall apply with
19 respect to any claim whose review is governed by one
20 of such paragraphs and that is pending on or after
21 the date of the enactment of this Act.

22 **SEC. 1006. TRAINING OF IRAQI FORCES REGARDING TREAT-**
23 **MENT OF DETAINEES.**

24 (a) REQUIRED POLICIES.—

1 (1) IN GENERAL.—The Secretary of Defense
2 shall ensure that policies are prescribed regarding
3 procedures for military and civilian personnel of the
4 Department of Defense and contractor personnel of
5 the Department of Defense in Iraq that are intended
6 to ensure that members of the Armed Forces, and
7 all persons acting on behalf of the Armed Forces or
8 within facilities of the Armed Forces, ensure that all
9 personnel of Iraqi military forces who are trained by
10 Department of Defense personnel and contractor
11 personnel of the Department of Defense receive
12 training regarding the international obligations and
13 laws applicable to the humane detention of detain-
14 ees, including protections afforded under the Geneva
15 Conventions and the Convention Against Torture.

16 (2) ACKNOWLEDGMENT OF TRAINING.—The
17 Secretary shall ensure that, for all personnel of the
18 Iraqi Security Forces who are provided training re-
19 ferred to in paragraph (1), there is documented ac-
20 knowledgment of such training having been pro-
21 vided.

22 (3) DEADLINE FOR POLICIES TO BE PRE-
23 SCRIBED.—The policies required by paragraph (1)
24 shall be prescribed not later than 180 days after the
25 date of the enactment of this Act.

1 (b) ARMY FIELD MANUAL.—

2 (1) TRANSLATION.—The Secretary of Defense
3 shall provide for the United States Army Field Man-
4 ual on Intelligence Interrogation to be translated
5 into arabic and any other language the Secretary de-
6 termines appropriate for use by members of the
7 Iraqi military forces.

8 (2) DISTRIBUTION.—The Secretary of Defense
9 shall provide for such manual, as translated, to be
10 provided to each unit of the Iraqi military forces
11 trained by Department of Defense personnel or con-
12 tractor personnel of the Department of Defense.

13 (c) TRANSMITTAL OF REGULATIONS.—Not less than
14 30 days after the date on which regulation, policies, and
15 orders are first prescribed under subsection (a), the Sec-
16 retary of Defense shall submit to the Committee on Armed
17 Services of the Senate and the Committee on Armed Serv-
18 ices of the House of Representatives copies of such regula-
19 tions, policies, or orders, together with a report on steps
20 taken to the date of the report to implement this section.

21 (d) ANNUAL REPORT.—Not less than one year after
22 the date of the enactment of this Act, and annually there-
23 after, the Secretary of Defense shall submit to the Com-
24 mittee on Armed Services of the Senate and the Com-

- 1 mittee on Armed Services of the House of Representatives
- 2 a report on the implementation of this section.

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~~And the Senate agree to the same.~~

~~*[Signature]*~~

1 DIVISION B
 2 EMERGENCY SUPPLEMENTAL APPROPRIATIONS
 3 TO ADDRESS HURRICANES IN THE GULF
 4 OF MEXICO AND PANDEMIC INFLUENZA,
 5 2006

6 That the following sums are appropriated, out of any
 7 money in the Treasury not otherwise appropriated, to
 8 ~~address~~ hurricanes in the Gulf of Mexico and pandemic
 9 influenza for the fiscal year ending September 30, 2006,
 10 and for other purposes, namely:

address)

11 TITLE I
 12 EMERGENCY SUPPLEMENTAL APPROPRIATIONS
 13 TO ADDRESS HURRICANES IN THE GULF
 14 OF MEXICO

15 CHAPTER
 16 DEPARTMENT OF AGRICULTURE
 17 EXECUTIVE OPERATIONS
 18 WORKING CAPITAL FUND

(1

19 For necessary expenses of "Working Capital Fund"
 20 related to the consequences of Hurricane Katrina,
 21 \$35,000,000, to remain available until expended: *Pro-*
 22 *vided*, That the amount provided under this heading is
 23 designated as an emergency requirement pursuant to sec-
 24 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
 25 rent resolution on the budget for fiscal year 2006.

1 AGRICULTURAL RESEARCH SERVICE

2 BUILDINGS AND FACILITIES

3 For an additional amount for "Buildings and Facili-
4 ties", \$9,200,000, to remain available until September 30,
5 2007, for necessary expenses related to the consequences
6 of Hurricane Katrina: *Provided*, That the amount pro-
7 vided under this heading is designated as an emergency
8 requirement pursuant to section 402 of H. Con. Res. 95
9 (109th Congress), the concurrent resolution on the budget
10 for fiscal year 2006.

11 RURAL DEVELOPMENT PROGRAMS

12 RURAL COMMUNITY ADVANCEMENT PROGRAM

13 For the cost of ~~the~~ grants for the water, waste dis-
14 posal, and wastewater facilities programs authorized
15 under section 306(a) and 306A of the Consolidated Farm
16 and Rural Development Act, \$45,000,000: *Provided*, That
17 funds made available under this paragraph shall remain
18 available until expended to respond to damage caused by
19 hurricanes that occurred during the 2005 calendar year:
20 *Provided further*, That the amounts provided under this
21 heading are designated as an emergency requirement pur-
22 suant to section 402 of H. Con. Res. 95 (109th Congress),
23 the concurrent resolution on the budget for fiscal year
24 2006.

1 RURAL HOUSING SERVICE

2 RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

3 For gross obligations for the principal amount of di-
4 rect and guaranteed loans as authorized by title V of the
5 Housing Act of 1949 to respond to damage caused by hur-
6 ricanes that occurred during the 2005 calendar year to
7 be available from the Rural Housing Insurance Fund, as
8 follows: \$1,468,696,000 for loans to section 502 bor-
9 rowers, as determined by the Secretary, of which
10 \$175,593,000 shall be for direct loans and of which
11 \$1,293,103,000 shall be for unsubsidized guaranteed
12 loans; and \$34,188,000 for section 504 housing repair
13 loans.

14 For the cost of direct and guaranteed loans, including
15 the cost of modifying loans, as defined in section 502 of
16 the Congressional Budget Act of 1974, as follows, to re-
17 main available until expended: section 502 loans,
18 \$35,000,000, of which \$20,000,000 shall be for direct
19 loans, and of which \$15,000,000 shall be for unsubsidized
20 guaranteed loans; and section 504 housing repair loans,
21 \$10,000,000: *Provided*, That the amounts provided under
22 this heading are designated as an emergency requirement
23 pursuant to section 402 of H. Con. Res. 95 (109th Con-
24 gress), the concurrent resolution on the budget for fiscal
25 year 2006.

1 RURAL HOUSING ASSISTANCE GRANTS

2 For an additional amount for grants for very low-in-
3 come housing repairs as authorized by 42 U.S.C. 1474
4 to respond to damage caused by hurricanes that occurred
5 during the 2005 calendar year, \$20,000,000, to remain
6 available until expended: *Provided*, That the amount pro-
7 vided under this heading is designated as an emergency
8 requirement pursuant to section 402 of H. Con. Res. 95
9 (109th Congress), the concurrent resolution on the budget
10 for fiscal year 2006: *Provided further*, That these funds
11 are not subject to any age limitation.

12 RURAL UTILITIES SERVICE

13 RURAL ELECTRIFICATION AND TELECOMMUNICATIONS

14 LOANS PROGRAM ACCOUNT

15 For gross obligations for the principal amount of di-
16 rect rural telecommunication loans as authorized by sec-
17 tion 306 of the Rural Electrification Act of 1936 to re-
18 spond to damage caused by hurricanes that occurred dur-
19 ing the 2005 calendar year, \$50,000,000, as determined
20 by the Secretary.

21 For the cost of loan modifications to rural electric
22 loans made or guaranteed under the Rural Electrification
23 Act of 1936 to respond to damage caused by hurricanes
24 that occurred during the 2005 calendar year, \$8,000,000,
25 to remain available until expended: *Provided*, That the

1 amount provided under this heading is designated as an
2 emergency requirement pursuant to section 402 of H.
3 Con. Res. 95 (109th Congress), the concurrent resolution
4 on the budget for fiscal year 2006.

5 FOOD AND NUTRITION SERVICE
6 COMMODITY ASSISTANCE PROGRAM

7 For an additional amount for “Commodity Assistance
8 Program” for necessary expenses related to the con-
9 sequences of Hurricane Katrina, \$10,000,000, to remain
10 available until expended, of which \$6,000,000 shall be for
11 The Emergency Food Assistance Program and
12 \$4,000,000 shall be for the Commodity Supplemental
13 Food Program: *Provided*, That notwithstanding any other
14 provisions of the Emergency Food Assistance Act of 1983
15 (the “Act”), the Secretary may allocate additional foods
16 and funds for administrative expenses from resources spe-
17 cifically appropriated, transferred, or reprogrammed to re-
18 store to states resources used to assist families and indi-
19 viduals displaced by the hurricanes of calendar year 2005
20 among the states without regard to sections 204 and 214
21 of the Act: *Provided further*, That such programs may op-
22 erate in any area where emergency feeding organizations
23 develop a program to provide temporary emergency non-
24 profit food service to families and individuals displaced by
25 the hurricanes of calendar year 2005: *Provided further*,

1 That the amounts provided under this heading are des-
2 igned as an emergency requirement pursuant to section
3 402 of H. Con. Res. 95 (109th Congress), the concurrent
4 resolution on the budget for fiscal year 2006.

5 GENERAL PROVISIONS

THIS CHAPTER

6 SEC. . EMERGENCY CONSERVATION PROGRAM.

101

7 (a) IN GENERAL.—There is hereby appropriated
8 \$199,800,000, to remain available until expended, to pro-
9 vide assistance under the emergency conservation program
10 established under title IV of the Agricultural Credit Act
11 of 1978 (16 U.S.C. 2201 et seq.) for expenses resulting
12 from natural disasters.

hurricanes that occurred during the 2005 calendar year

13 (b) ASSISTANCE TO NURSERY, OYSTER, AND POUL-
14 TRY PRODUCERS.—In carrying out this section, the Sec-
15 retary shall make payments to nursery, oyster, and poultry
16 producers to pay for up to 90 percent of the cost of emer-
17 gency measures to rehabilitate public and private oyster
18 reefs or farmland damaged by hurricanes that occurred
19 during the 2005 calendar year, including the cost of—

- 20 (1) cleaning up structures, such as barns and
- 21 poultry houses;
- 22 (2) providing water to livestock;
- 23 (3) in the case of nursery producers, removing
- 24 debris, such as nursery structures, shade-houses,
- 25 and above-ground irrigation facilities;

1 (4) in the case of oyster producers, refurbishing
2 oyster beds; and

3 (5) in the case of poultry producers, removing
4 poultry house debris, including carcasses.

5 (c) POULTRY RECOVERY ASSISTANCE.—

6 (1) IN GENERAL.—The Secretary shall not use
7 more than \$20,000,000 of the funds made available
8 under this section to provide assistance to poultry
9 growers who suffered uninsured losses to poultry
10 houses in counties affected by hurricanes that oc-
11 curred during the 2005 calendar year.

12 (2) LIMITATIONS.—The amount of assistance
13 provided to a poultry grower under this subsection
14 may not exceed the lesser of—

15 (A) 50 percent of the total costs associated
16 with the reconstruction or repair of a poultry
17 house; or

18 (B) \$50,000 for each poultry house.

19 (3) LIMIT ON AMOUNT OF ASSISTANCE.—The
20 total amount of assistance provided under this sub-
21 section, and any indemnities for losses to a poultry
22 house paid to a poultry grower, may not exceed 90
23 percent of the total costs associated with the recon-
24 struction or repair of a poultry house.

1 (d) ASSISTANCE TO PRIVATE NONINDUSTRIAL FOR-
2 EST LANDOWNERS.—

3 (1) ELIGIBILITY.—To be eligible to receive a
4 payment under this section, a private nonindustrial
5 forest landowner shall (as determined by the Sec-
6 retary)—

7 (A) have suffered a loss of, or damage to,
8 at least 35 percent of forest acres on commer-
9 cial forest land of the forest landowner in a
10 county affected by hurricanes that occurred
11 during the 2005 calendar year, or a related
12 condition; and

13 (B) during the 5-year period beginning on
14 the date of the loss—

15 (i) reforest the lost forest acres, in ac-
16 cordance with a plan approved by the Sec-
17 retary that is appropriate for the forest
18 type;

19 (ii) use best management practices on
20 the forest land of the landowner, in accord-
21 ance with the best management practices
22 of the Secretary for the applicable State;
23 and

1 (iii) exercise good stewardship on the
2 forest land of the landowner, while main-
3 taining the land in a forested state.

4 (2) PROGRAM.—The Secretary shall make pay-
5 ments under this subsection to private nonindustrial
6 forest landowners to pay for up to 75 percent of the
7 cost of reforestation, rehabilitation, and related
8 measures, except that the amount of assistance pro-
9 vided under this section shall not exceed \$150 per
10 acre.

sub)

11 (e) ELIGIBILITY.—Failure to comply with subtitle C
12 of title XII of the Food Security Act of 1985 (16 U.S.C.
13 3821 et seq.) shall not prevent an agricultural producer
14 from receiving assistance under this section.

15 (f) EMERGENCY DESIGNATION.—The amount pro-
16 vided under this section is designated as an emergency re-
17 quirement pursuant to section 402 of H. Con. Res. 95
18 (109th Congress), the concurrent resolution on the budget
19 for fiscal year 2006.

20 SEC. ____ . EMERGENCY WATERSHED PROTECTION

102)

21 PROGRAM. (a) IN GENERAL.—There is hereby appro-
22 priated \$300,000,000, to remain available until expended,
23 to provide assistance under the emergency watershed pro-
24 tection program established under section 403 of the Agri-
25 cultural Credit Act of 1978 (16 U.S.C. 2203) to repair

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1 damages resulting from ~~natural disasters to waterways,~~
2 ~~watersheds, and for other purposes provided for in this~~
3 ~~section.~~

*hurricanes
that occurred
during the 2005
calendar
year*

4 (b) ASSISTANCE.—In carrying out this section, the
5 Secretary shall make payments to landowners and land
6 users to pay for up to 75 percent of the cost resulting
7 from damage caused by hurricanes that occurred during
8 the 2005 calendar year, or a related condition, including
9 the cost of—

10 (1) cleaning up structures on private land; and

11 (2) reimbursing private nonindustrial forest
12 landowners for costs associated with downed timber
13 removal, except that the amount of assistance pro-
14 vided under this paragraph shall not exceed \$150
15 per acre.

16 (c) EMERGENCY DESIGNATION.—The amount pro-
17 vided under this section is designated as an emergency re-
18 quirement pursuant to section 402 of H. Con. Res. 95
19 (109th Congress), the concurrent resolution on the budget
20 for fiscal year 2006.

21 ~~Notwithstanding any other provision of~~
22 ~~law, the Secretary of Agriculture, acting through the Nat-~~
23 ~~ural Resources Conservation Service, and using funds~~
24 ~~made available for the Emergency Watershed Protection~~
25 ~~program, is authorized to provide financial and technical~~

d)
*Insert
10 a*

e

10a.

c)

~~(a) AUTHORITY TO CLEAR DEBRIS AND ANIMAL~~

~~CARCASSES.~~ Notwithstanding any other provision of law,
the Secretary, acting through the Natural Resources Con-
servation Service, using funds made available for the
under this section

~~emergency watershed protection program established
under section 403 of the Agricultural Credit Act of 1978~~

~~(16 U.S.C. 2203), may provide financial and technical as-
sistance to remove and dispose of debris and animal car-
casses that could adversely affect health and safety on
non-Federal land in a hurricane-affected county.~~

~~1 assistance with regard to non-federal lands affected by
2 hurricanes that occurred during the 2005 calendar year
3 to remove and dispose of debris and animal carcasses that
4 could adversely affect health and safety.~~

103) 5 SEC. _____. Notwithstanding any other provision of
6 law, funds appropriated under this Act to the Secretary
7 of Agriculture may be used to reimburse accounts of the
8 Secretary that have been used to pay costs incurred to
9 respond to damage caused by hurricanes that occurred
10 during the 2005 calendar year if those costs could have
11 been paid with such appropriated funds if such costs had
12 arisen after the date of enactment of this Act.

104) 13 SEC. _____. Funds provided for hurricanes that oc-
14 curred during the 2005 calendar year under the headings,
15 "Rural Housing Insurance Fund" and "Rural Housing
16 Assistance Grants", may be transferred between such ac-
17 counts at the Secretary's discretion.

105) 18 SEC. _____. (a) Notwithstanding any other provision
19 of this title, with respect to the counties affected by hurri-
20 canes in the 2005 calendar year and for any individuals
21 who resided in such counties at the time of the disaster
22 the Secretary of Agriculture may, for a 6-month period
23 that begins upon the date of the enactment of this Act—
24 (1) convert rental assistance under section 521
25 of the Housing Act of 1949 (42 U.S.C. 1490a) allo-

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1 cated for a property that is not decent, safe, and
2 sanitary because of the disaster into rural housing
3 vouchers authorized under title V of the Housing
4 Act of 1949 ~~or this section;~~

5 (2) guarantee loans under section 502(h) of the
6 Housing Act of 1949 (42 U.S.C. 1472(h)) to—

7 (A) repair and rehabilitate single-family
8 residences; and

9 (B) refinance any loan made to a single-
10 family resident used to acquire or construct the
11 single-family residence if such residence meets
12 the requirements of subparagraphs (A), (B),
13 and (C) of section 502(h)(4) of the Housing
14 Act of 1949 (42 U.S.C. 1472(h)(4));

15 (3) waive the application of the rural area or
16 similar limitations under any program funded
17 through an appropriations act and administered by
18 the Rural Development Mission Area;

19 (4) issue housing vouchers under section 542 of
20 the Housing Act of 1949 (42 U.S.C. 1490r), except
21 that—

22 (A) notwithstanding the first sentence of
23 subsection (a) of section 542 of such Act, the
24 Secretary may assist low-income families and
25 persons whose residence has become uninhabit-

1 able or inaccessible as a result of a 2005 hurri-
2 cane; and

3 (B) subsection (b) of such section 542 of
4 such Act shall not apply;

5 (5) provide loans, loan guarantees and grants
6 from the Renewable Energy System and Energy Ef-
7 ficiency Improvements Program authorized in sec-
8 tion 9006 of the Farm Security and Rural Invest-
9 ment Act of 2002 (7 U.S.C. 8106) to any rural busi-
10 ness—

11 (A) with a cost share requirement not to
12 exceed 50 percent;

13 (B) without regard to any limitation of the
14 grant amount; and

15 (C) which may include businesses proc-
16 essing unsegregated solid waste and paper, as
17 determined by the Secretary;

18 (6) provide grants under the Value-added Agri-
19 cultural Product Market Development Grant Pro-
20 gram and Rural Cooperative Development Grant
21 Program without regard to any grant amount limita-
22 tions or matching requirements; and

23 (7) provide grants under the Community Facili-
24 ties Grant Program without regard to any graduated

1 funding requirements, grant amount limitations or
2 matching requirements.

3 (b) The funds made available under this section are
4 designated as an emergency requirement pursuant to sec-
5 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
6 rent resolution on the budget for fiscal year 2006.

106) 7 SEC. ____ . Section 759 of the Agriculture, Rural De-
8 velopment, Food and Drug Administration and Related
9 Agencies Appropriations Act, 2006 (Public Law 109-97)
10 is amended to read as follows:

11 "SEC. 759. None of the funds appropriated or other-
12 wise made available under this or any other Act shall be
13 used to pay the salaries and expenses of personnel to ex-
14 pend more than \$12,000,000 of the funds initially made
15 available for fiscal year 2006 by section 310(a)(2) of the
16 Biomass Research and Development Act of 2000 (7
17 U.S.C. 7624 note)."

18 ~~SEC. ____ . Notwithstanding section 16(a) of the~~
19 ~~Food Stamp Act of 1977 (7 U.S.C. 205(a)), the Secretary~~
20 ~~of Agriculture is authorized, at the discretion of the Sec-~~
21 ~~retary, to pay to state agencies 100 percent of the admin-~~
22 ~~istrative costs incurred in the certification of, and issuance~~
23 ~~of benefits to, applicant households that become eligible~~
24 ~~to receive food stamp benefits under the disaster food~~
25 ~~stamp program eligibility standards in effect during the~~

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1 ~~Presidentially declared emergency in response to Hurri-~~
2 ~~cane Katrina or Hurricane Rita: *Provided*, That the~~
3 ~~amount provided under this heading is designated as an~~
4 ~~emergency requirement pursuant to section 402 of H.~~
5 ~~Con. Res. 95 (109th Congress), the concurrent resolution~~
6 ~~on the budget for fiscal year 2006.~~

15A

1 ~~Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.)~~

2 to—

3 (1) producers who suffered tree losses in hurri-
4 cane-affected counties; and

5 (2) fruit and tree nut producers in hurricane-
6 affected counties for site preparation, replacement,
7 rehabilitation, and pruning.

8 (c) COSTS.—Funds made available under this section
9 shall also be made available to cover costs associated with
10 tree pruning, tree rehabilitation, and other appropriate
11 tree-related activities as determined by the Secretary.

12 (d) LIMIT ON AMOUNT OF ASSISTANCE.—The Sec-
13 retary shall ensure, to the maximum extent practicable,
14 that no producer on a farm receives duplicative payments
15 under this section and any other Federal program for the
16 same loss.

17 **SEC. 202. EMERGENCY FORESTRY CONSERVATION RE-
18 SERVE PROGRAM.**

19 Section 1231 of the Food Security Act of 1985 (16
20 U.S.C. 3831) is amended by adding at the end the fol-
21 lowing:

22 “(k) EMERGENCY FORESTRY CONSERVATION RE-
23 SERVE PROGRAM.—

24 “(1) DEFINITIONS.—In this subsection:

107

(a)

e

~~11~~ 15B

1 “(A) MERCHANTABLE TIMBER.—The term
2 ‘merchantable timber’ means timber on private
3 nonindustrial forest land on which the average
4 tree has a trunk diameter of at least 6 inches
5 measured at a point no less than 4.5 feet above
6 the ground.

7 “(B) PRIVATE NONINDUSTRIAL FOREST
8 LAND.—The term ‘private nonindustrial forest
9 land’ includes State school trust land.

10 “(2) PROGRAM.—During calendar year 2006,
11 the Secretary shall carry out an emergency pilot pro-
12 gram in States that the Secretary determines have
13 suffered damage to merchantable timber in [~~hurri~~
14 ~~e-cane-affected~~] counties.

affected by hurricanes during the 2005 calendar year

15 “(3) ELIGIBLE ACREAGE.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B) and the availability of funds under
18 subparagraph (G), an owner or operator may
19 enroll private nonindustrial forest land in the
20 conservation reserve under this subsection.

21 “(B) DETERMINATION OF DAMAGES.—Eli-
22 gibility for enrollment shall be limited to owners
23 and operators of private nonindustrial forest
24 land that have experienced a loss of 35 percent

15C

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or more of merchantable timber in a ~~hurricane~~
~~affected~~ county.

*affected by hurricanes
during the 2005 calendar
Year*

“(C) EXEMPTIONS.—Acreage enrolled in
the conservation reserve under this subsection
shall not count toward—

“(i) county acreage limitations de-
scribed in section 1243(b); or

“(ii) the maximum enrollment de-
scribed in subsection (d).

“(D) DUTIES OF OWNERS AND OPERA-
TORS.—As a condition of entering into a con-
tract under this subsection, during the term of
the contract, the owner or operator of private
nonindustrial forest land shall agree—

“(i) to restore the land, through site
preparation and planting of similar species
as existing prior to hurricane damages or
to the maximum extent practicable with
other native species, as determined by the
Secretary; and

“(ii) to establish temporary vegetative
cover the purpose of which is to prevent
soil erosion on the eligible acreage, as de-
termined by the Secretary.

“(E) DUTIES OF THE SECRETARY.—

150

1 “(i) IN GENERAL.—In return for a
2 contract entered into by an owner or oper-
3 ator of private nonindustrial forest land
4 under this subsection, the Secretary shall
5 provide, at the option of the landowner—

6 “(I) notwithstanding the limita-
7 tion in section 1234(f)(1), a lump
8 sum payment; or

9 “(II) annual rental payments.

10 “(ii) CALCULATION OF LUMP SUM
11 PAYMENT.—The lump sum payment de-
12 scribed in clause (i)(I) shall be calculated
13 using a net present value formula, as de-
14 termined by the Secretary, based on the
15 total amount a producer would receive over
16 the duration of the contract.

17 “(iii) CALCULATION OF ANNUAL
18 RENTAL PAYMENTS.—The annual rental
19 payment described in clause (i)(II) shall be
20 equal to the average rental rate for con-
21 servation reserve contracts in the county in
22 which the land is located.

23 “(iv) ROLLING SIGNUP.—The Sec-
24 retary shall offer a rolling signup for con-
25 tracts under this subsection.

RISE

1 “(v) DURATION OF CONTRACTS.—A
2 contract entered into under this subsection
3 shall have a term of 10 years.

4 “(F) BALANCE OF NATURAL RE-
5 SOURCES.—In determining the acceptability of
6 contract offers under this subsection, the Sec-
7 retary shall consider an equitable balance
8 among the purposes of soil erosion prevention,
9 water quality improvement, wildlife habitat res-
10 toration, and mitigation of economic loss.

11 “(G) FUNDING.—The Secretary shall use
12 \$~~100,000,000~~ of funds of the Commodity Cred-
13 it Corporation to carry out this subsection.

← 404,100,000,
to remain availab
until expended,

14 “(H) DETERMINATIONS BY SECRETARY.—
15 A determination made by the Secretary under
16 this subsection shall be final and conclusive.

17 “(I) REGULATIONS.—

18 “(i) IN GENERAL.—Not later than 90
19 days after the date of enactment of this
20 Act, the Secretary shall promulgate such
21 regulations as are necessary to implement
22 this subsection.

23 “(ii) PROCEDURE.—The promulgation
24 of regulations and administration of this

~~15~~ 15F

1 subsection shall be made without regard
2 to—

3 “(I) the notice and comment pro-
4 visions of section 553 of title 5,
5 United States Code;

6 “(II) the Statement of Policy of
7 the Secretary of Agriculture effective
8 July 24, 1971 (36 Fed. Reg. 13804),
9 relating to notices of proposed rule-
10 making and public participation in
11 rulemaking; and

12 “(III) chapter 35 of title 44,
13 United States Code (commonly known
14 as the ‘Paperwork Reduction Act’).

15 “(iii) CONGRESSIONAL REVIEW OF
16 AGENCY RULEMAKING.—In carrying out
17 this subsection, the Secretary shall use the
18 authority provided under section 808 of
19 title 5, United States Code.”.

~~insert 18A~~
insert 15G

~~20 **TITLE III—CONSERVATION**
21 **SEC. 301. NATURAL RESOURCES CONSERVATION SERVICE.**
22 (a) **AUTHORITY TO CLEAR DEBRIS AND ANIMAL**
23 **CARCASSES.**—Notwithstanding any other provision of law,
24 the Secretary, acting through the Natural Resources Con-
25 servation Service, using funds made available for the~~

— e

~~Insert 15A~~ INSERT 15G

(b) 15 (f) EMERGENCY DESIGNATION.—The amount pro-
16 vided under this section is designated as an emergency re-
17 quirement pursuant to section 402 of H. Con. Res. 95
18 (109th Congress), the concurrent resolution on the budget
19 for fiscal year 2006.

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1

CHAPTER

2

DEPARTMENT OF DEFENSE

3

MILITARY PERSONNEL

4

MILITARY PERSONNEL, ARMY

5 For an additional amount for "Military Personnel,
6 Army", \$29,830,000, to remain available until September
7 30, 2006, for necessary expenses related to the con-
8 sequences of hurricanes in the Gulf of Mexico in calendar
9 year 2005: *Provided*, That the amount provided under this
10 heading is designated as an emergency requirement pursu-
11 ant to section 402 of H. Con. Res. 95 (109th Congress),
12 the concurrent resolution on the budget for fiscal year
13 2006.

14

MILITARY PERSONNEL, NAVY

15 For an additional amount for "Military Personnel,
16 Navy", \$57,691,000, to remain available until September
17 30, 2006, for necessary expenses related to the con-
18 sequences of hurricanes in the Gulf of Mexico in calendar
19 year 2005: *Provided*, That the amount provided under this
20 heading is designated as an emergency requirement pursu-
21 ant to section 402 of H. Con. Res. 95 (109th Congress),
22 the concurrent resolution on the budget for fiscal year
23 2006.

1 MILITARY PERSONNEL, MARINE CORPS

2 For an additional amount for "Military Personnel,
3 Marine Corps", \$14,193,000, to remain available until
4 September 30, 2006, for necessary expenses related to the
5 consequences of hurricanes in the Gulf of Mexico in cal-
6 endar year 2005: *Provided*, That the amount provided
7 under this heading is designated as an emergency require-
8 ment pursuant to section 402 of H. Con. Res. 95 (109th
9 Congress), the concurrent resolution on the budget for fis-
10 cal year 2006.

11 MILITARY PERSONNEL, AIR FORCE

12 For an additional amount for "Military Personnel,
13 Air Force", \$105,034,000, to remain available until Sep-
14 tember 30, 2006, for necessary expenses related to the
15 consequences of hurricanes in the Gulf of Mexico in cal-
16 endar year 2005: *Provided*, That the amount provided
17 under this heading is designated as an emergency require-
18 ment pursuant to section 402 of H. Con. Res. 95 (109th
19 Congress), the concurrent resolution on the budget for fis-
20 cal year 2006.

21 RESERVE PERSONNEL, ARMY

22 For an additional amount for "Reserve Personnel,
23 Army", \$11,100,000, to remain available until September
24 30, 2006, for necessary expenses related to the con-
25 sequences of hurricanes in the Gulf of Mexico in calendar

1 year 2005: *Provided*, That the amount provided under this
2 heading is designated as an emergency requirement pursu-
3 ant to section 402 of H. Con. Res. 95 (109th Congress),
4 the concurrent resolution on the budget for fiscal year
5 2006.

6 RESERVE PERSONNEL, NAVY

7 For an additional amount for "Reserve Personnel,
8 Navy", \$33,015,000, to remain available until September
9 30, 2006, for necessary expenses related to the con-
10 sequences of hurricanes in the Gulf of Mexico in calendar
11 year 2005: *Provided*, That the amount provided under this
12 heading is designated as an emergency requirement pursu-
13 ant to section 402 of H. Con. Res. 95 (109th Congress),
14 the concurrent resolution on the budget for fiscal year
15 2006.

16 RESERVE PERSONNEL, MARINE CORPS

17 For an additional amount for "Reserve Personnel,
18 Marine Corps", \$3,028,000, to remain available until Sep-
19 tember 30, 2006, for necessary expenses related to the
20 consequences of hurricanes in the Gulf of Mexico in cal-
21 endar year 2005: *Provided*, That the amount provided
22 under this heading is designated as an emergency require-
23 ment pursuant to section 402 of H. Con. Res. 95 (109th
24 Congress), the concurrent resolution on the budget for fis-
25 cal year 2006.

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4

1 RESERVE PERSONNEL, AIR FORCE

2 For an additional amount for "Reserve Personnel,
3 Air Force", \$2,370,000, to remain available until Sep-
4 tember 30, 2006, for necessary expenses related to the
5 consequences of hurricanes in the Gulf of Mexico in cal-
6 endar year 2005: *Provided*, That the amount provided
7 under this heading is designated as an emergency require-
8 ment pursuant to section 402 of H. Con. Res. 95 (109th
9 Congress), the concurrent resolution on the budget for fis-
10 cal year 2006.

11 NATIONAL GUARD PERSONNEL, ARMY

12 For an additional amount for "National Guard Per-
13 sonnel, Army", \$220,556,000, to remain available until
14 September 30, 2006, for necessary expenses related to the
15 consequences of hurricanes in the Gulf of Mexico in cal-
16 endar year 2005: *Provided*, That the amount provided
17 under this heading is designated as an emergency require-
18 ment pursuant to section 402 of H. Con. Res. 95 (109th
19 Congress), the concurrent resolution on the budget for fis-
20 cal year 2006.

21 NATIONAL GUARD PERSONNEL, AIR FORCE

22 For an additional amount for "National Guard Per-
23 sonnel, Air Force", \$77,718,000, to remain available until
24 September 30, 2006, for necessary expenses related to the
25 consequences of hurricanes in the Gulf of Mexico in cal-

1 endar year 2005: *Provided*, That the amount provided
2 under this heading is designated as an emergency require-
3 ment pursuant to section 402 of H. Con. Res. 95 (109th
4 Congress), the concurrent resolution on the budget for fis-
5 cal year 2006.

6 OPERATION AND MAINTENANCE

7 OPERATION AND MAINTENANCE, ARMY

8 For an additional amount for “Operation and Main-
9 tenance, Army”, \$156,166,000, to remain available until
10 September 30, 2006, for necessary expenses related to the
11 consequences of hurricanes in the Gulf of Mexico in cal-
12 endar year 2005: *Provided*, That the amount provided
13 under this heading is designated as an emergency require-
14 ment pursuant to section 402 of H. Con. Res. 95 (109th
15 Congress), the concurrent resolution on the budget for fis-
16 cal year 2006.

17 OPERATION AND MAINTENANCE, NAVY

18 For an additional amount for “Operation and Main-
19 tenance, Navy”, \$544,690,000, to remain available until
20 September 30, 2006, for necessary expenses related to the
21 consequences of hurricanes in the Gulf of Mexico in cal-
22 endar year 2005: *Provided*, That the amount provided
23 under this heading is designated as an emergency require-
24 ment pursuant to section 402 of H. Con. Res. 95 (109th

1 Congress), the concurrent resolution on the budget for fis-
2 cal year 2006.

3 OPERATION AND MAINTENANCE, MARINE CORPS

4 For an additional amount for "Operation and Main-
5 tenance, Marine Corps", \$7,343,000, to remain available
6 until September 30, 2006, for necessary expenses related
7 to the consequences of hurricanes in the Gulf of Mexico
8 in calendar year 2005: *Provided*, That the amount pro-
9 vided under this heading is designated as an emergency
10 requirement pursuant to section 402 of H. Con. Res. 95
11 (109th Congress), the concurrent resolution on the budget
12 for fiscal year 2006.

13 OPERATION AND MAINTENANCE, AIR FORCE

14 For an additional amount for "Operation and Main-
15 tenance, Air Force", \$554,252,000, to remain available
16 until September 30, 2006, for necessary expenses related
17 to the consequences of hurricanes in the Gulf of Mexico
18 in calendar year 2005: *Provided*, That the amount pro-
19 vided under this heading is designated as an emergency
20 requirement pursuant to section 402 of H. Con. Res. 95
21 (109th Congress), the concurrent resolution on the budget
22 for fiscal year 2006.

23 OPERATION AND MAINTENANCE, DEFENSE-WIDE

24 For an additional amount for "Operation and Main-
25 tenance, Defense-Wide", \$29,027,000, to remain available

1 until September 30, 2006, for necessary expenses related
2 to the consequences of hurricanes in the Gulf of Mexico
3 in calendar year 2005: *Provided*, That the amount pro-
4 vided under this heading is designated as an emergency
5 requirement pursuant to section 402 of H. Con. Res. 95
6 (109th Congress), the concurrent resolution on the budget
7 for fiscal year 2006.

8 OPERATION AND MAINTENANCE, ARMY RESERVE

9 For an additional amount for "Operation and Main-
10 tenance, Army Reserve", \$16,118,000, to remain available
11 until September 30, 2006, for necessary expenses related
12 to the consequences of hurricanes in the Gulf of Mexico
13 in calendar year 2005: *Provided*, That the amount pro-
14 vided under this heading is designated as an emergency
15 requirement pursuant to section 402 of H. Con. Res. 95
16 (109th Congress), the concurrent resolution on the budget
17 for fiscal year 2006.

18 OPERATION AND MAINTENANCE, NAVY RESERVE

19 For an additional amount for "Operation and Main-
20 tenance, Navy Reserve", \$480,084,000, to remain avail-
21 able until September 30, 2006, for necessary expenses re-
22 lated to the consequences of hurricanes in the Gulf of Mex-
23 ico in calendar year 2005: *Provided*, That the amount pro-
24 vided under this heading is designated as an emergency
25 requirement pursuant to section 402 of H. Con. Res. 95

1 (109th Congress), the concurrent resolution on the budget
2 for fiscal year 2006.

3 OPERATION AND MAINTENANCE, MARINE CORPS
4 RESERVE

5 For an additional amount for "Operation and Main-
6 tenance, Marine Corps Reserve", \$16,331,000, to remain
7 available until September 30, 2006, for necessary expenses
8 related to the consequences of hurricanes in the Gulf of
9 Mexico in calendar year 2005: *Provided*, That the amount
10 provided under this heading is designated as an emergency
11 requirement pursuant to section 402 of H. Con. Res. 95
12 (109th Congress), the concurrent resolution on the budget
13 for fiscal year 2006.

14 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

15 For an additional amount for "Operation and Main-
16 tenance, Air Force Reserve", \$2,366,000, to remain avail-
17 able until September 30, 2006, for necessary expenses re-
18 lated to the consequences of hurricanes in the Gulf of Mex-
19 ico in calendar year 2005: *Provided*, That the amount pro-
20 vided under this heading is designated as an emergency
21 requirement pursuant to section 402 of H. Con. Res. 95
22 (109th Congress), the concurrent resolution on the budget
23 for fiscal year 2006.

1 OPERATION AND MAINTENANCE, ARMY NATIONAL
2 GUARD

3 For an additional amount for "Operation and Main-
4 tenance, Army National Guard", \$98,855,000, to remain
5 available until September 30, 2006, for necessary expenses
6 related to the consequences of hurricanes in the Gulf of
7 Mexico in calendar year 2005: *Provided*, That the amount
8 provided under this heading is designated as an emergency
9 requirement pursuant to section 402 of H. Con. Res. 95
10 (109th Congress), the concurrent resolution on the budget
11 for fiscal year 2006.

12 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

13 For an additional amount for "Operation and Main-
14 tenance, Air National Guard", \$48,086,000, to remain
15 available until September 30, 2006, for necessary expenses
16 related to the consequences of hurricanes in the Gulf of
17 Mexico in calendar year 2005: *Provided*, That the amount
18 provided under this heading is designated as an emergency
19 requirement pursuant to section 402 of H. Con. Res. 95
20 (109th Congress), the concurrent resolution on the budget
21 for fiscal year 2006.

1 PROCUREMENT
2 PROCUREMENT OF WEAPONS AND TRACKED COMBAT
3 VEHICLES, ARMY
4 For an additional amount for “Procurement of Weap-
5 ons and Tracked Combat Vehicles, Army”, \$1,600,000, to
6 remain available until September 30, 2008, for necessary
7 expenses related to the consequences of hurricanes in the
8 Gulf of Mexico in calendar year 2005: *Provided*, That the
9 amount provided under this heading is designated as an
10 emergency requirement pursuant to section 402 of H.
11 Con. Res. 95 (109th Congress), the concurrent resolution
12 on the budget for fiscal year 2006.

13 PROCUREMENT OF AMMUNITION, ARMY
14 For an additional amount for “Procurement of Am-
15 munition, Army”, \$1,000,000, to remain available until
16 September 30, 2008, for necessary expenses related to the
17 consequences of hurricanes in the Gulf of Mexico in cal-
18 endar year 2005: *Provided*, That the amount provided
19 under this heading is designated as an emergency require-
20 ment pursuant to section 402 of H. Con. Res. 95 (109th
21 Congress), the concurrent resolution on the budget for fis-
22 cal year 2006.

23 OTHER PROCUREMENT, ARMY
24 For an additional amount for “Other Procurement,
25 Army”, \$43,390,000, to remain available until September

1 30, 2008, for necessary expenses related to the con-
2 sequences of hurricanes in the Gulf of Mexico in calendar
3 year 2005: *Provided*, That the amount provided under this
4 heading is designated as an emergency requirement pursu-
5 ant to section 402 of H. Con. Res. 95 (109th Congress),
6 the concurrent resolution on the budget for fiscal year
7 2006.

8 AIRCRAFT PROCUREMENT, NAVY

9 For an additional amount for "Aircraft Procurement,
10 Navy", \$3,856,000, to remain available until September
11 30, 2008, for necessary expenses related to the con-
12 sequences of hurricanes in the Gulf of Mexico in calendar
13 year 2005: *Provided*, That the amount provided under this
14 heading is designated as an emergency requirement pursu-
15 ant to section 402 of H. Con. Res. 95 (109th Congress),
16 the concurrent resolution on the budget for fiscal year
17 2006.

18 PROCUREMENT OF AMMUNITION, NAVY AND MARINE

19 CORPS

20 For an additional amount for "Procurement of Am-
21 munition, Navy and Marine Corps", \$2,600,000, to re-
22 main available until September 30, 2008, for necessary ex-
23 penses related to the consequences of hurricanes in the
24 Gulf of Mexico in calendar year 2005: *Provided*, That the
25 amount provided under this heading is designated as an

1 emergency requirement pursuant to section 402 of H.
2 Con. Res. 95 (109th Congress), the concurrent resolution
3 on the budget for fiscal year 2006.

4 SHIPBUILDING AND CONVERSION, NAVY

5 For an additional amount for "Shipbuilding and Con-
6 version, Navy", \$1,987,000,000, to remain available until
7 September 30, 2010, for necessary expenses related to the
8 consequences of hurricanes in the Gulf of Mexico in cal-
9 endar year 2005, which shall be available for transfer
10 within this account to replace destroyed or damaged
11 equipment, prepare and recover naval vessels under con-
12 tract; and provide for cost adjustments for naval vessels
13 for which funds have been previously appropriated: *Pro-*
14 *vided*, That this transfer authority is in addition to any
15 other transfer authority available to the Department of
16 Defense: *Provided further*, That the Secretary of Defense
17 shall, not fewer than 15 days prior to making transfers
18 within this appropriation, notify the congressional defense
19 committees in writing of the details of any such transfer:
20 *Provided further*, That the amount provided under this
21 heading is designated as an emergency requirement pursu-
22 ant to section 402 of H. Con. Res. 95 (109th Congress),
23 the concurrent resolution on the budget for fiscal year
24 2006.

1 OTHER PROCUREMENT, NAVY

2 For an additional amount for "Other Procurement,
3 Navy", \$76,675,000, to remain available until September
4 30, 2008, for necessary expenses related to the con-
5 sequences of hurricanes in the Gulf of Mexico in calendar
6 year 2005: *Provided*, That the amount provided under this
7 heading is designated as an emergency requirement pursu-
8 ant to section 402 of H. Con. Res. 95 (109th Congress),
9 the concurrent resolution on the budget for fiscal year
10 2006.

11 OTHER PROCUREMENT, AIR FORCE

12 For an additional amount for "Other Procurement,
13 Air Force", \$162,315,000, to remain available until Sep-
14 tember 30, 2008, for necessary expenses related to the
15 consequences of hurricanes in the Gulf of Mexico in cal-
16 endar year 2005: *Provided*, That the amount provided
17 under this heading is designated as an emergency require-
18 ment pursuant to section 402 of H. Con. Res. 95 (109th
19 Congress), the concurrent resolution on the budget for fis-
20 cal year 2006.

21 PROCUREMENT, DEFENSE-WIDE

22 For an additional amount for "Procurement, De-
23 fense-Wide", \$12,082,000, to remain available until Sep-
24 tember 30, 2008, for necessary expenses related to the
25 consequences of hurricanes in the Gulf of Mexico in cal-

1 endar year 2005: *Provided*, That the amount provided
2 under this heading is designated as an emergency require-
3 ment pursuant to section 402 of H. Con. Res. 95 (109th
4 Congress), the concurrent resolution on the budget for fis-
5 cal year 2006.

6 NATIONAL GUARD AND RESERVE EQUIPMENT

7 For an additional amount for "National Guard and
8 Reserve Equipment", \$19,260,000, to remain available
9 until September 30, 2008, for necessary expenses related
10 to the consequences of hurricanes in the Gulf of Mexico
11 in calendar year 2005: *Provided*, That the amount pro-
12 vided under this heading is designated as an emergency
13 requirement pursuant to section 402 of H. Con. Res. 95
14 (109th Congress), the concurrent resolution on the budget
15 for fiscal year 2006.

16 RESEARCH, DEVELOPMENT, TEST AND
17 EVALUATION

18 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
19 NAVY

20 For an additional amount for "Research, Develop-
21 ment, Test and Evaluation, Navy", \$2,462,000, to remain
22 available until September 30, 2007, for necessary expenses
23 related to the consequences of hurricanes in the Gulf of
24 Mexico in calendar year 2005: *Provided*, That the amount
25 provided under this heading is designated as an emergency

1 requirement pursuant to section 402 of H. Con. Res. 95
2 (109th Congress), the concurrent resolution on the budget
3 for fiscal year 2006.

4 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
5 AIR FORCE

6 For an additional amount for "Research, Develop-
7 ment, Test and Evaluation, Air Force", \$6,200,000, to re-
8 main available until September 30, 2007, for necessary ex-
9 penses related to the consequences of hurricanes in the
10 Gulf of Mexico in calendar year 2005: *Provided*, That the
11 amount provided under this heading is designated as an
12 emergency requirement pursuant to section 402 of H.
13 Con. Res. 95 (109th Congress), the concurrent resolution
14 on the budget for fiscal year 2006.

15 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
16 DEFENSE-WIDE

17 For an additional amount for "Research, Develop-
18 ment, Test and Evaluation, Defense-Wide", \$32,720,000,
19 to remain available until September 30, 2007, for nec-
20 essary expenses related to the consequences of hurricanes
21 in the Gulf of Mexico in calendar year 2005: *Provided*,
22 That the amount provided under this heading is des-
23 ignated as an emergency requirement pursuant to section
24 402 of H. Con. Res. 95 (109th Congress), the concurrent
25 resolution on the budget for fiscal year 2006.

1 REVOLVING AND MANAGEMENT FUNDS

2 DEFENSE WORKING CAPITAL FUNDS

3 For an additional amount for "Defense Working
4 Capital Funds", \$7,224,000, to remain available until ex-
5 pended, for necessary expenses related to the consequences
6 of hurricanes in the Gulf of Mexico in calendar year 2005:
7 *Provided*, That the amount provided under this heading
8 is designated as an emergency requirement pursuant to
9 section 402 of H. Con. Res. 95 (109th Congress), the con-
10 current resolution on the budget for fiscal year 2006.

11 TRUST FUNDS

12 SURCHARGE COLLECTIONS, SALES OF COMMISSARY

13 STORES, DEFENSE

14 For an additional amount for "Surcharge Collections,
15 Sales of Commissary Stores, Defense", \$44,341,000, to
16 remain available until expended, for necessary expenses re-
17 lated to the consequences of hurricanes in the Gulf of Mex-
18 ico in calendar year 2005: *Provided*, That the amount pro-
19 vided under this heading is designated as an emergency
20 requirement pursuant to section 402 of H. Con. Res. 95
21 (109th Congress), the concurrent resolution on the budget
22 for fiscal year 2006.

1 OTHER DEPARTMENT OF DEFENSE PROGRAMS

2 DEFENSE HEALTH PROGRAM

3 For an additional amount for "Defense Health Pro-
4 gram", \$201,550,000, of which \$172,958,000 shall be for
5 Operation and Maintenance, and of which \$28,592,000
6 shall be for Procurement, to remain available until Sep-
7 tember 30, 2006, for necessary expenses related to the
8 consequences of hurricanes in the Gulf of Mexico in cal-
9 endar year 2005: *Provided*, That the amounts provided
10 under this heading are designated as an emergency re-
11 quirement pursuant to section 402 of H. Con. Res. 95
12 (109th Congress), the concurrent resolution on the budget
13 for fiscal year 2006.

14 OFFICE OF THE INSPECTOR GENERAL

15 For an additional amount for "Office of the Inspector
16 General", \$310,000, to remain available until September
17 30, 2006, for necessary expenses related to the con-
18 sequences of hurricanes in the Gulf of Mexico in calendar
19 year 2005: *Provided*, That the amount provided under this
20 heading is designated as an emergency requirement pursu-
21 ant to section 402 of H. Con. Res. 95 (109th Congress),
22 the concurrent resolution on the budget for fiscal year
23 2006.

GENERAL PROVISIONS

(TRANSFER OF FUNDS)

201)

3 SEC. . Upon his determination that such action
 4 is necessary to ensure the appropriate allocation of funds
 5 provided in this chapter, the Secretary of Defense may
 6 transfer up to \$500,000,000 of the funds made available
 7 to the Department of Defense in this chapter between
 8 such appropriations: *Provided*, That the Secretary shall
 9 notify the Congress promptly of each transfer made pursu-
 10 ant to this authority: *Provided further*, That the transfer
 11 authority provided in this section is in addition to any
 12 other transfer authority available to the Department of
 13 Defense: *Provided further*, That the amount made avail-
 14 able by the transfer of the funds in or pursuant to this
 15 section is designated as an emergency requirement pursu-
 16 ant to section 402 of H. Con. Res. 95 (109th Congress),
 17 the concurrent resolution on the budget for fiscal year
 18 2006.

202)

19 SEC. . Notwithstanding section 701(b) of title
 20 10, United States Code, the Secretary of Defense may au-
 21 thorize a member of the Armed Forces on active duty who
 22 performed duties in support of disaster relief operations
 23 in connection with hurricanes in the Gulf of Mexico in cal-
 24 endar year 2005 and who, except for this section, would
 25 lose any accumulated leave in excess of 60 days at the

THIS CHAPTER

1 end of fiscal year 2005 to retain an accumulated leave
2 total not to exceed 120 days leave. Except as provided in
3 section 701(f) of title 10, United States Code, leave in
4 excess of 60 days accumulated under this section is lost
5 unless used by the member before October 1, 2007.

203) 6 SEC. _____ . Notwithstanding 37 U.S.C. 403(b), the
7 Secretary of Defense may prescribe a temporary adjust-
8 ment in the geographic location rates of the basic allow-
9 ance for housing in a military housing area located within
10 an area declared a major disaster under the Robert T.
11 Stafford Disaster Relief and Emergency Act (42 U.S.C.
12 5121 et seq.) resulting from hurricanes in the Gulf of
13 Mexico in calendar year 2005.

14 (1) Such temporary adjustment shall be based
15 upon the Secretary's redetermination of housing
16 costs in an affected area and at a rate that shall not
17 exceed 20 percent of the current rate for an affected
18 area.

19 (2) Members in an affected military housing
20 area must certify that an increased housing cost
21 above the current rate for an affected area has been
22 incurred in order to be eligible for the temporary
23 rate adjustment.

24 (3) No temporary adjustment may be made
25 after September 30, 2006. No assistance provided to

1 individual households under this heading may extend
 2 beyond January 1, 2007. Further, the Secretary is
 3 authorized to reduce or eliminate any temporary ad-
 4 justment granted under paragraph (1) prior to such
 5 date as appropriate.

204) 6 SEC. _____. Funds appropriated by this chapter may
 7 be obligated and expended notwithstanding section
 8 504(a)(1) of the National Security Act of 1947 (50 U.S.C.
 9 414(a)(1)).

205) 10 SEC. _____. (a) The total amount appropriated or oth-
 11 erwise made available in this chapter is hereby reduced
 12 by \$737,089,000.

13 (b) The Secretary of Defense shall allocate this re-
 14 duction proportionately to each applicable appropriation
 15 account.

16 (c) The reduction in subsection (a) shall not apply
 17 to budget authority appropriated or otherwise made avail-
 18 able to the Defense Health Program account.

12/17/05

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CHAPTER
DEPARTMENT OF DEFENSE—CIVIL
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS—CIVIL
INVESTIGATIONS

3

For an additional amount for “Investigations” to expedite studies of flood and storm damage reduction related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, \$37,300,000, to remain available until expended: *Provided*, That using \$10,000,000 of the funds provided, the Secretary shall conduct an analysis and design for comprehensive improvements or modifications to existing improvements in the coastal area of Mississippi in the interest of hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resource purposes at full Federal expense: *Provided further*, That the Secretary shall recommend a cost-effective project, but shall not perform an incremental benefit-cost analysis to identify the recommended project, and shall not make project recommendations based upon maximizing net national economic development benefits: *Provided further*, That interim recommendations for near term improvements shall be provided within 6 months of enactment of this Act with final recommendations within

1 24 months of enactment: *Provided further*, That none of
2 the \$12,000,000 provided herein for the Louisiana Hurri-
3 cane Protection Study shall be available for expenditure
4 until the State of Louisiana establishes a single state or
5 quasi-state entity to act as local sponsor for construction,
6 operation and maintenance of all of the hurricane, storm
7 damage reduction and flood control projects in the greater
8 New Orleans and southeast Louisiana area: *Provided fur-*
9 *ther*, That the amount provided under this heading is des-
10 ignated as an emergency requirement pursuant to section
11 402 of H. Con. Res. 95 (109th Congress), the concurrent
12 resolution on the budget for fiscal year 2006.

13 CONSTRUCTION

14 For additional amounts for "Construction" to reha-
15 bilitate and repair Corps projects related to the con-
16 sequences of hurricanes in the Gulf of Mexico and Atlantic
17 Ocean in 2005, \$101,417,000, to remain available until
18 expended: *Provided*, That the amount provided under this
19 heading is designated as an emergency requirement pursu-
20 ant to section 402 of H. Con. Res. 95 (109 Congress),
21 the concurrent resolution on the budget for fiscal year
22 2006.

1 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,
2 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-
3 SSISSIPPI, MISSOURI, AND TENNESSEE

4 For an additional amount for "Flood Control, Mis-
5 sissippi River and Tributaries, Arkansas, Illinois, Ken-
6 tucky, Louisiana, Mississippi, Missouri, and Tennessee"
7 to cover the additional costs of mat laying and other re-
8 pairs to the Mississippi River channel and associated levee
9 repairs related to the consequences of hurricanes in the
10 Gulf of Mexico in 2005, \$153,750,000, to remain available
11 until expended: *Provided*, That the amount provided under
12 this heading is designated as an emergency requirement
13 pursuant to section 402 of H. Con. Res. 95 (109th Con-
14 gress), the concurrent resolution on the budget for fiscal
15 year 2006.

16 OPERATION AND MAINTENANCE

17 For an additional amount for "Operation and Main-
18 tenance" to dredge navigation channels and repair other
19 Corps projects related to the consequences of hurricanes
20 in the Gulf of Mexico and Atlantic Ocean in 2005,
21 \$327,517,000, to remain available until expended: *Pro-*
22 *vided*, That \$75,000,000 of this amount shall be used for
23 authorized operation and maintenance activities along the
24 Mississippi River-Gulf Outlet channel: *Provided further*,
25 That the amount provided under this heading is des-
26 ignated as an emergency requirement pursuant to section

1 402 of H. Con. Res. 95 (109th Congress), the concurrent
2 resolution on the budget for fiscal year 2006.

3 FLOOD CONTROL AND COASTAL EMERGENCIES

4 For an additional amount for "Flood Control and
5 Coastal Emergencies", as authorized by section 5 of the
6 Flood Control Act of August 18, 1941, as amended (33
7 U.S.C. 701n), for emergency response to and recovery
8 from coastal storm damages and flooding related to the
9 consequences of hurricanes in the Gulf of Mexico and At-
10 lantic Ocean in 2005, \$2,277,965,000, to remain available
11 until expended: *Provided*, That in using the funds appro-
12 priated for construction related to Hurricane Katrina in
13 the areas covered by the disaster declaration made by the
14 President under the Robert T. Stafford Disaster Relief
15 and Emergency Assistance Act, Public Law 93-288, 88
16 Stat. 143, as amended (42 U.S.C. 5121 et seq.), the Sec-
17 retary of the Army, acting through the Chief of Engineers,
18 is directed to restore the flood damage reduction and hur-
19 ricane and storm damage reduction projects, and related
20 works, to provide the level of protection for which they
21 were designed, at full Federal expense: *Provided further*,
22 That \$75,000,000 of this amount shall be used to accel-
23 erate completion of unconstructed portions of authorized
24 projects in the State of Mississippi along the Mississippi
25 Gulf Coast at full Federal expense: *Provided further*, That
26 \$544,460,000 of this amount shall be used to accelerate

1 completion of unconstructed portions of authorized hurri-
2 cane, storm damage reduction and flood control projects
3 in the greater New Orleans and south Louisiana area at
4 full Federal expense: *Provided further*, That \$70,000,000
5 of this amount shall be available to prepare for flood, hur-
6 ricane and other natural disasters and support emergency
7 operations, repair and other activities in response to flood
8 and hurricane emergencies as authorized by law: *Provided*
9 *further*, That the amount provided under this heading is
10 designated as an emergency requirement pursuant to sec-
11 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
12 rent resolution on the budget for fiscal year 2006.

13

GENERAL EXPENSES

14 For an additional amount for "General Expenses"
15 for increased efforts by the Mississippi Valley Division to
16 oversee emergency response and recovery activities related
17 to the consequences of hurricanes in the Gulf of Mexico
18 in 2005, \$1,600,000, to remain available until expended:
19 *Provided*, That the amount provided under this heading
20 is designated as an emergency requirement pursuant to
21 section 402 of H. Con. Res. 95 (109th Congress), the con-
22 current resolution on the budget for fiscal year 2006.

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CHAPTER *4e*

DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to repair and replace critical equipment and property damaged by hurricanes and other natural disasters, \$24,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION

For an additional amount for "Construction" to rebuild and repair structures damaged by hurricanes and other natural disasters, \$10,400,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to repair and replace critical equipment and property damaged by hurricanes and other natural disasters,

~~12/17/05~~

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1 \$13,000,000: *Provided*, That the amount provided under
2 this heading is designated as an emergency requirement
3 pursuant to section 402 of H. Con. Res. 95 (109th Con-
4 gress), the concurrent resolution on the budget for fiscal
5 year 2006.

6 UNITED STATES COAST GUARD
7 OPERATING EXPENSES

8 For an additional amount for "Operating Expenses"
9 for necessary expenses related to the consequences of hur-
10 ricanes and other natural disasters, \$132,000,000, to re-
11 main available until expended, of which up to \$400,000
12 may be transferred to "Environmental Compliance and
13 Restoration" to be used for environmental cleanup and
14 restoration of Coast Guard facilities; and of which up to
15 \$525,000 may be transferred to "Research, Development,
16 Test, and Evaluation" to be used for salvage and repair
17 of research and development equipment and facilities: *Pro-*
18 *vided*, That the amount provided under this heading is
19 designated as an emergency requirement pursuant to sec-
20 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
21 rent resolution on the budget for fiscal year 2006.

22 ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

23 For an additional amount for "Acquisition, Construc-
24 tion, and Improvements" for necessary expenses related
25 to the consequences of hurricanes and other natural disas-
26 ters, \$74,500,000, to remain available until expended, for

1 major repair and reconstruction projects and for vessels
2 currently under construction: *Provided*, That such
3 amounts shall also be available for expenses to replace de-
4 stroyed or damaged equipment; prepare and recover
5 United States Coast Guard vessels under contract; reim-
6 burse for delay, loss of efficiency and disruption, and other
7 related costs; make equitable adjustments and provisional
8 payments to contracts for Coast Guard vessels for which
9 funds have been previously appropriated: *Provided further*,
10 That the amount provided under this heading is des-
11 ignated as an emergency requirement pursuant to section
12 402 of H. Con. Res. 95 (109th Congress), the concurrent
13 resolution on the budget for fiscal year 2006.

14 UNITED STATES SECRET SERVICE

15 SALARIES AND EXPENSES

16 For an additional amount for "Salaries and Ex-
17 penses" for equipment, vehicle replacement, and personnel
18 relocation due to the consequences of hurricanes and other
19 natural disasters, \$3,600,000: *Provided*, That the amount
20 provided under this heading is designated as an emergency
21 requirement pursuant to section 402 of H. Con. Res. 95
22 (109th Congress), the concurrent resolution on the budget
23 for fiscal year 2006.

4

1 OFFICE FOR DOMESTIC PREPAREDNESS
2 STATE AND LOCAL PROGRAMS

3 For an additional amount for "State and Local Pro-
4 grams" for equipment replacement related to hurricanes
5 and other natural disasters, \$10,300,000: *Provided*, That
6 the amount provided under this heading is designated as
7 an emergency requirement pursuant to section 402 of H.
8 Con. Res. 95 (109th Congress), the concurrent resolution
9 on the budget for fiscal year 2006.

10 FEDERAL EMERGENCY MANAGEMENT AGENCY
11 ADMINISTRATIVE AND REGIONAL OPERATIONS

12 For an additional amount for "Administrative and
13 Regional Operations" for necessary expenses related to
14 hurricanes and other natural disasters, \$17,200,000, to
15 remain available until expended: *Provided*, That the
16 amount provided under this heading is designated as an
17 emergency requirement pursuant to section 402 of H.
18 Con. Res. 95 (109th Congress), the concurrent resolution
19 on the budget for fiscal year 2006.

20 DISASTER RELIEF
21 (TRANSFER OF FUNDS)

22 In addition, of the amounts appropriated under this
23 heading in Public Law 109-62, \$1,500,000 shall be trans-
24 ferred to the "Disaster Assistance Direct Loan Program
25 Account" for administrative expenses to carry out the di-
26 rect loan program, as authorized by section 417 of the

12/17/05

5

THIS CHAPTER

1 Stafford Act: *Provided*, That the amount provided under
2 this heading is designated as an emergency requirement
3 pursuant to section 402 of H. Con. Res. 95 (109th Con-
4 gress), the concurrent resolution on the budget for fiscal
5 year 2006.

6 GENERAL PROVISION

401

7 SEC. . Notwithstanding 10 U.S.C. 701(b), the
8 Secretary of the Department of Homeland Security, may
9 authorize a member on active duty who performed duties
10 in support of Hurricanes Katrina or Rita disaster relief
11 operations and who, except for this section, would lose any
12 accumulated leave in excess of 60 days at the end of fiscal
13 year 2005, to retain an accumulated leave total not to ex-
14 ceed 120 days leave. Leave in excess of 60 days accumu-
15 lated under this section is lost unless it is used by the
16 member before October 1, 2007.

12/17/05

House

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CHAPTER 5

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for "Construction" for re-
sponse, cleanup, recovery, repair and reconstruction ex-
penses related to hurricanes in the Gulf of Mexico in cal-
endar year 2005, \$30,000,000, to remain available until
expended: *Provided*, That the amount provided under this
heading is designated as an emergency requirement pursu-
ant to section 402 of H. Con. Res. 95 (109th Congress),
the concurrent resolution on the budget for fiscal year
2006.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction" for re-
sponse, cleanup, recovery, repair and reconstruction ex-
penses related to hurricanes in the Gulf of Mexico in cal-
endar year 2005, \$19,000,000, to remain available until
expended: *Provided*, That the amount provided under this
heading is designated as an emergency requirement pursu-
ant to section 402 of H. Con. Res. 95 (109th Congress),
the concurrent resolution on the budget for fiscal year
2006.

1 UNITED STATES GEOLOGICAL SURVEY
2 SURVEYS, INVESTIGATIONS, AND RESEARCH

3 For an additional amount for "Surveys, Investiga-
4 tions, and Research", for necessary expenses related to the
5 consequences of hurricanes in the Gulf of Mexico in cal-
6 endar year 2005 and for repayment of advances to other
7 appropriation accounts from which funds were transferred
8 for such purposes, \$5,300,000, to remain available until
9 expended: *Provided*, That the amount provided under this
10 heading is designated as an emergency requirement pursu-
11 ant to section 402 of H. Con. Res. 95 (109th Congress),
12 the concurrent resolution on the budget for fiscal year
13 2006.

14 MINERALS MANAGEMENT SERVICE
15 ROYALTY AND OFFSHORE MINERALS MANAGEMENT
16 For an additional amount for "Royalty and Offshore
17 Minerals Management", for necessary expenses related to
18 the consequences of hurricanes in the Gulf of Mexico in
19 calendar year 2005 and for repayment of advances to
20 other appropriation accounts from which funds were
21 transferred for such purposes, \$16,000,000, to remain
22 available until expended: *Provided*, That the amount pro-
23 vided under this heading is designated as an emergency
24 requirement pursuant to section 402 of H. Con. Res. 95

1 (109th Congress), the concurrent resolution on the budget
2 for fiscal year 2006.

3 ENVIRONMENTAL PROTECTION AGENCY

4 LEAKING UNDERGROUND STORAGE TANK PROGRAM

5 For an additional amount for "Leaking Underground
6 Storage Tank Program", ~~not~~ not to exceed \$85,000 per
7 project, \$8,000,000, to remain available until expended,
8 for the necessary expenses related to the consequences of
9 hurricanes in the Gulf of Mexico in calendar year 2005:

10 *Provided*, That the amounts provided under this heading
11 ~~are~~ are designated as an emergency requirement pursuant to
12 section 402 of H. Con. Res. 95 (109th Congress), the con-
13 current resolution on the budget for fiscal year 2006.

14 DEPARTMENT OF AGRICULTURE

15 FOREST SERVICE

16 STATE AND PRIVATE FORESTRY

17 For an additional amount for "State and Private
18 Forestry", \$30,000,000, to remain available until ex-
19 pended, for necessary expenses related to the consequences
20 of hurricanes in the Gulf of Mexico in calendar year 2005:
21 *Provided*, That the amount provided under this heading
22 is designated as an emergency requirement pursuant to
23 section 402 of H. Con. Res. 95 (109th Congress), the con-
24 current resolution on the budget for fiscal year 2006.

1 NATIONAL FOREST SYSTEM

2 For an additional amount for “National Forest Sys-
3 tem”, \$20,000,000, to remain available until expended, for
4 necessary expenses, including hazardous fuels reduction,
5 related to the consequences of hurricanes in the Gulf of
6 Mexico in calendar year 2005: *Provided*, That the amount
7 provided under this heading is designated as an emergency
8 requirement pursuant to section 402 of H. Con. Res. 95
9 (109th Congress), the concurrent resolution on the budget
10 for fiscal year 2006.

11 CAPITAL IMPROVEMENT AND MAINTENANCE

12 For an additional amount for “Capital Improvement
13 and Maintenance”, \$7,000,000, to remain available until
14 expended, for necessary expenses related to the con-
15 sequences of hurricanes in the Gulf of Mexico in calendar
16 year 2005: *Provided*, That the amount provided under this
17 heading is designated as an emergency requirement pursu-
18 ant to section 402 of H. Con. Res. 95 (109th Congress),
19 the concurrent resolution on the budget for fiscal year
20 2006.

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CHAPTER ⁶

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services" to award national emergency grants under section 173 of the Workforce Investment Act of 1998 related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, \$125,000,000, to remain available until June 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That these sums may be used to replace grant funds previously obligated to the impacted areas.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Funds provided under this heading in Public Law 108-447 which have been allocated to the States of Alabama, Louisiana, and Mississippi for activities authorized by title III of the Social Security Act, as amended, shall remain available for obligation by such States through September 30, 2006, except that funds used for automation by such States shall remain available through September 30, 2008.

1 DEPARTMENT OF HEALTH AND HUMAN
 2 SERVICES
 3 ADMINISTRATION FOR CHILDREN AND FAMILIES
 18 SOCIAL SERVICES BLOCK GRANT

19 For an additional amount for "Social Services Block
 20 Grant", \$550,000,000, for necessary expenses related to
 21 the consequences of hurricanes in the Gulf of Mexico in
 22 calendar year 2005, notwithstanding section 2003 and
 23 paragraphs (1) and (4) of section 2005(a) of the Social
 24 Security Act (42 U.S.C. 1397b and 1397d(a)): *Provided*,
 25 That in addition to other uses permitted by title XX of
 26 the Social Security Act, funds appropriated under this
 1 heading may be used for health services (including mental
 2 health services) and for repair, renovation and construc-
 3 tion of health facilities (including mental health facilities):
 4 *Provided further*, That the amount provided under this
 5 heading is designated as an emergency requirement pursu-
 6 ant to section 402 of H. Con. Res. 95 (109th Congress),
 7 the concurrent resolution on the budget for fiscal year
 8 2006.

4 CHILDREN AND FAMILIES SERVICES PROGRAMS

5 For an additional amount for "Children and Families
 6 Services Programs", \$90,000,000, for Head Start to serve
 7 children displaced by hurricanes in the Gulf of Mexico in
 8 calendar year 2005, notwithstanding sections 640(a)(1)
 9 and 640(g)(1) of the Head Start Act, and to cover the

10 costs of renovating those Head Start facilities which were
11 affected by these hurricanes, to the extent reimbursements
12 from FEMA and insurance companies do not fully cover
13 such costs: *Provided*, That the amount provided under this
14 heading is designated as an emergency requirement pursu-
15 ant to section 402 of H. Con. Res. 95 (109th Congress),
16 the concurrent resolution on the budget for fiscal year
17 2006.

9 DEPARTMENT OF EDUCATION

10 For assisting in meeting the educational needs of in-
11 dividuals affected by hurricanes in the Gulf of Mexico in
12 calendar year 2005, \$1,600,000,000, to remain available
13 through September 30, 2006, of which \$750,000,000 shall
14 be available to State educational agencies until expended
15 to carry out section 102 of title IV, division B of this Act,
16 \$5,000,000 shall be available to carry out section 106 of
17 title IV, division B of this Act, \$645,000,000 shall be
18 available to carry out section 107 of title IV, division B
19 of this Act, and \$200,000,000 shall be available to provide
20 assistance under the programs authorized by subparts 3
21 and 4 of part A, part C of title IV, and part B of title
22 VII of the Higher Education Act of 1965, for students
23 attending institutions of higher education (as defined in
24 section 102 of that Act) that are located in an area in
25 which a major disaster has been declared in accordance

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~~SEN. APPROP.~~

~~4~~

1 with section 401 of the Robert T. Stafford Disaster Relief
2 and Emergency Assistance Act related to hurricanes in the
3 Gulf of Mexico in calendar year 2005 and who qualify for
4 assistance under subparts 3 and 4 of part A and part C
5 of title IV of the Higher Education Act of 1965, to provide
6 emergency assistance based on demonstrated need to insti-
7 tutions of higher education that are located in an area
8 affected by hurricanes in the Gulf of Mexico in calendar
9 year 2005 and were forced to close, relocate or signifi-
10 cantly curtail their activities as a result of damage directly
11 sustained by such hurricanes, and to provide payments to
12 institutions of higher education to help defray the unex-
13 pected expenses associated with enrolling displaced stu-
14 dents from institutions of higher education at which oper-
15 ations have been disrupted due to hurricanes in the Gulf
16 of Mexico in calendar year 2005: *Provided*, That of the
17 \$200,000,000 described in the preceding proviso,
18 \$95,000,000 shall be for the Mississippi Institutes of
19 Higher Learning to provide assistance under such title IV
20 programs, notwithstanding any requirements relating to
21 matching, Federal share, reservation of funds, or mainte-
22 nance of effort that would otherwise be applicable to that
23 assistance; \$95,000,000 shall be for the Louisiana Board
24 of Regents to provide emergency assistance based on dem-
25 onstrated need under part B of title VII of the Higher

1 Education Act of 1965, which may be used for student
2 financial assistance, faculty and staff salaries, equipment
3 and instruments, or any purpose authorized under the
4 Higher Education Act of 1965, to institutions of higher
5 education that are located in an area affected by hurri-
6 canes in the Gulf of Mexico in calendar year 2005; and
7 \$10,000,000 shall be available to the Secretary of Edu-
8 cation for such payments to institutions of higher edu-
9 cation to help defray the unexpected expenses associated
10 with enrolling displaced students from institutions of high-
11 er education directly affected by hurricanes in the Gulf
12 of Mexico in calendar year 2005, in accordance with cri-
13 teria as are established by the Secretary and made publicly
14 available without regard to section 437 of the General
15 Education Provisions Act or section 553 of title 5, United
16 States Code: *Provided further*, That the amounts provided
17 in this paragraph are designated as an emergency require-
18 ment pursuant to section 402 of H. Con. Res. 95 (109th
19 Congress), the concurrent resolution on the budget for fis-
20 cal year 2006.

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CHAPTER

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

(7)
DEPARTMENT OF DEFENSE

For an additional amount for "Military Construction, Navy and Marine Corps", \$291,219,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for 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 H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", \$52,612,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for 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 pursu-

1 ant to section 402 of H. Con. Res. 95 (109th Congress),
2 the concurrent resolution on the budget for fiscal year
3 2006.

4 MILITARY CONSTRUCTION, DEFENSE-WIDE

5 For an additional amount for “Military Construction,
6 Defense-Wide”, \$45,000,000, to remain available until
7 September 30, 2010, for necessary expenses related to the
8 consequences of hurricanes in the Gulf of Mexico in cal-
9 endar year 2005: *Provided*, That such funds may be obli-
10 gated or expended for planning and design and military
11 construction projects not otherwise authorized by law:
12 *Provided further*, That the amount provided under this
13 heading is designated as an emergency requirement pursu-
14 ant to section 402 of H. Con. Res. 95 (109th Congress),
15 the concurrent resolution on the budget for fiscal year
16 2006.

17 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

18 For an additional amount for “Military Construction,
19 Army National Guard”, \$374,300,000, for necessary ex-
20 penses related to the consequences of hurricanes in the
21 Gulf of Mexico in calendar year 2005: *Provided*, That such
22 funds may be obligated or expended for planning and de-
23 sign and military construction projects not otherwise au-
24 thorized by law: *Provided further*, That the amount pro-
25 vided under this heading is designated as an emergency

1 requirement pursuant to section 402 of H. Con. Res. 95
2 (109th Congress), the concurrent resolution on the budget
3 for fiscal year 2006.

4 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

5 For an additional amount for "Military Construction,
6 Air National Guard", \$35,000,000, to remain available
7 until September 30, 2010, for necessary expenses related
8 to the consequences of hurricanes in the Gulf of Mexico
9 in calendar year 2005: *Provided*, That such funds may be
10 obligated or expended for planning and design and mili-
11 tary construction projects not otherwise authorized by law:
12 *Provided further*, That the amount provided under this
13 heading is designated as an emergency requirement pursu-
14 ant to section 402 of H. Con. Res. 95 (109th Congress),
15 the concurrent resolution on the budget for fiscal year
16 2006.

17 MILITARY CONSTRUCTION, NAVAL RESERVE

18 For an additional amount for "Military Construction,
19 Naval Reserve", \$120,132,000, for necessary expenses re-
20 lated to the consequences of hurricanes in the Gulf of Mex-
21 ico in calendar year 2005: *Provided*, That such funds may
22 be obligated or expended for planning and design and mili-
23 tary construction projects not otherwise authorized by law:
24 *Provided further*, That the amount provided under this
25 heading is designated as an emergency requirement pursu-

1 ant to section 402 of H. Con. Res. 95 (109th Congress),
2 the concurrent resolution on the budget for fiscal year
3 2006.

4 FAMILY HOUSING

5 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE
6 CORPS

7 For an additional amount for "Family Housing Con-
8 struction, Navy and Marine Corps", \$86,165,000, to re-
9 main available until September 30, 2010, for necessary ex-
10 penses related to the consequences of hurricanes in the
11 Gulf of Mexico in calendar year 2005: *Provided*, That such
12 funds may be obligated or expended for planning and de-
13 sign and military construction projects not otherwise au-
14 thorized by law: *Provided further*, That the amount pro-
15 vided under this heading is designated as an emergency
16 requirement pursuant to section 402 of H. Con. Res. 95
17 (109th Congress), the concurrent resolution on the budget
18 for fiscal year 2006.

19 FAMILY HOUSING OPERATION AND MAINTENANCE,
20 NAVY AND MARINE CORPS

21 For an additional amount for "Family Housing Oper-
22 ation and Maintenance, Navy and Marine Corps",
23 \$48,889,000, for necessary expenses related to the con-
24 sequences of hurricanes in the Gulf of Mexico in calendar
25 year 2005, to remain available until September 30, 2007:

1 *Provided*, That the amount provided under this heading
2 is designated as an emergency requirement pursuant to
3 section 402 of H. Con. Res. 95 (109th Congress), the con-
4 current resolution on the budget for fiscal year 2006.

5 FAMILY HOUSING CONSTRUCTION, AIR FORCE

6 For an additional amount for “Family Housing Con-
7 struction, Air Force”, \$278,000,000, to remain available
8 until September 30, 2010, for necessary expenses related
9 to the consequences of hurricanes in the Gulf of Mexico
10 in calendar year 2005: *Provided*, That such funds may be
11 obligated or expended for planning and design and mili-
12 tary construction projects not otherwise authorized by law:
13 *Provided further*, That the amount provided under this
14 heading is designated as an emergency requirement pursu-
15 ant to section 402 of H. Con. Res. 95 (109th Congress),
16 the concurrent resolution on the budget for fiscal year
17 2006.

18 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR
19 FORCE

20 For an additional amount for “Family Housing Oper-
21 ation and Maintenance, Air Force”, \$47,019,000, to re-
22 main available until September 30, 2007, for necessary ex-
23 penses related to the consequences of hurricanes in the
24 Gulf of Mexico in calendar year 2005: *Provided*, That the
25 amount provided under this heading is designated as an

1 emergency requirement pursuant to section 402 of H.
2 Con. Res. 95 (109th Congress), the concurrent resolution
3 on the budget for fiscal year 2006.

4 DEPARTMENT OF VETERANS AFFAIRS

5 VETERANS HEALTH ADMINISTRATION

6 MEDICAL SERVICES

7 For an additional amount for "Medical Services",
8 \$198,265,000, for necessary expenses related to the con-
9 sequences of hurricanes in the Gulf of Mexico in calendar
10 year 2005: *Provided*, That the amount provided under this
11 heading is designated as an emergency requirement pursu-
12 ant to section 402 of H. Con. Res. 95 (109th Congress),
13 the concurrent resolution on the budget for fiscal year
14 2006.

15 DEPARTMENTAL ADMINISTRATION

16 GENERAL OPERATING EXPENSES

17 For an additional amount for "General Operating
18 Expenses", \$24,871,000, for necessary expenses related to
19 the consequences of hurricanes in the Gulf of Mexico in
20 calendar year 2005: *Provided*, That the amount provided
21 under this heading is designated as an emergency require-
22 ment pursuant to section 402 of H. Con. Res. 95 (109th
23 Congress), the concurrent resolution on the budget for fis-
24 cal year 2006.

1 NATIONAL CEMETERY ADMINISTRATION

2 For an additional amount for "National Cemetery
3 Administration", \$200,000, for necessary expenses related
4 to the consequences of hurricanes in the Gulf of Mexico
5 in calendar year 2005: *Provided*, That the amount pro-
6 vided under this heading is designated as an emergency
7 requirement pursuant to section 402 of H. Con. Res. 95
8 (109th Congress), the concurrent resolution on the budget
9 for fiscal year 2006.

10 CONSTRUCTION, MAJOR PROJECTS

11 For an additional amount for "Construction, Major
12 Projects", \$367,500,000, to remain available until ex-
13 pended, for necessary expenses related to the consequences
14 of hurricanes in the Gulf of Mexico in calendar year 2005:
15 *Provided*, That the amount provided under this heading
16 is designated as an emergency requirement pursuant to
17 section 402 of H. Con. Res. 95 (109th Congress), the con-
18 current resolution on the budget for fiscal year 2006.

19 CONSTRUCTION, MINOR PROJECTS

20 For an additional amount for "Construction, Minor
21 Projects," \$1,800,000, to remain available until expended,
22 for necessary expenses related to the consequences of hur-
23 ricanes in the Gulf of Mexico in calendar year 2005: *Pro-*
24 *vided*, That the amount provided under this heading is
25 designated as an emergency requirement pursuant to sec-

1 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
2 rent resolution on the budget for fiscal year 2006.

3 RELATED AGENCY

4 ARMED FORCES RETIREMENT HOME

5 For payment to the "Armed Forces Retirement
6 Home" for necessary expenses related to the consequences
7 of Hurricane Katrina, \$65,800,000, to remain available
8 until expended: *Provided*, That of the amount provided,
9 \$45,000,000 shall be available for the Armed Forces Re-
10 tirement Home, Gulfport, Mississippi: *Provided further*,
11 That of the amount provided, \$20,800,000 shall be avail-
12 able for the Armed Forces Retirement Home, Washington,
13 DC: *Provided further*, That the amounts provided under
14 this heading are designated as an emergency requirement (is
15 pursuant to section 402 of H. Con. Res. 95 (109th Con-
16 gress), the concurrent resolution on the budget for fiscal
17 year 2006.

18 GENERAL PROVISIONS } (— THIS CHAPTER

701)

19 SEC. ____ . The limitation of Federal contribution es-
20 tablished under section 18236(b) of title 10 is hereby
21 waived for projects appropriated in this chapter.

702)

22 SEC. ____ . For any real property expressly granted
23 to the United States since January 1, 1980 for use as
24 or in connection with a Navy homeport subject to a rever-
25 sionary interest retained by the grantor and serving as the

1 site of or being used by a naval station subsequently closed
2 or realigned pursuant to the Defense Base Closure and
3 Realignment Act of 1990 as amended, the right of the
4 United States to any consideration or repayment for the
5 fair market value of the real property as improved shall
6 be released, relinquished, waived, or otherwise perma-
7 nently extinguished. The Secretary shall execute such
8 written agreements as may be needed to facilitate the re-
9 version and transfer all right, title, and interest of the
10 United States in any real property described in this sec-
11 tion, including the improvements thereon, for no consider-
12 ation to the reversionary interest holder as soon as prac-
13 ticable after the naval station is closed or realigned. This
14 agreement shall not require the reversionary interest hold-
15 er to assume any environmental liabilities of the United
16 States or relieve the United States from any responsibil-
17 ities for environmental remediation that it may have in-
18 curred as a result of federal ownership or use of the real
19 property.

20 ~~SEC. ____ . Section 124 of Public Law 109-114 is~~
21 ~~amended by inserting before the period at the end the fol-~~
22 ~~lowing: “: *Provided further*, That nothing in this section~~
23 ~~precludes the Secretary of a military department, after no-~~
24 ~~tifying the congressional defense committees and waiting~~
25 ~~21 days, from using funds derived under section 2601,~~

1 chapter 403, chapter 603, or chapter 903 of title 10,
2 United States Code, for the maintenance or repair of Gen-
3 eral and Flag Officer Quarters at the military service
4 academy under the jurisdiction of that Secretary: *Provided*
5 *further*, That each Secretary of a military department
6 shall provide a report annually by February 15 to the con-
7 gressional defense committees on the amount of funds that
8 were derived under section 2601, chapter 403, chapter
9 603, or chapter 903 of title 10, United States Code in
10 the previous year and were obligated for the construction,
11 improvements, repair, or maintenance of any military fa-
12 cility or infrastructure.”.

13 SEC. ____ . Section 128 of Public Law 109-114 is
14 amended as follows—

15 (1) by inserting after “support” the following:
16 “a continuing mission or function at that installa-
17 tion or”; and

18 (2) by inserting after the last period the fol-
19 lowing: “This section shall not apply to military con-
20 struction projects, land acquisition, or family hous-
21 ing projects for which the project is vital to the na-
22 tional security or to the protection of health, safety
23 or quality of the environment: *Provided*, That the
24 Secretary of Defense shall notify the congressional

1 defense committees within 7 days of a decision to
2 carry out such a military construction project.”.

3 SEC. _____. The amount provided for “Military Con-
4 struction, Army” in Public Law 109-114 is hereby re-
5 duced by \$8,100,000 for the Special Operations Free Fall
6 Simulator at Yuma Proving Ground, Arizona.

7 The amount provided for “Military Construction,
8 Army” in Public Law 109-114 is hereby increased by
9 \$8,100,000 for the Upgrade Wastewater Treatment Plant
10 at Yuma Proving Ground, Arizona.

11 SEC. _____. Notwithstanding any other provision of
12 law, all military construction projects and military family
13 housing projects for which funds are appropriated in Pub-
14 lic Law 109-114, and architectural and engineering serv-
15 ices and construction design obtained in connection with
16 military construction projects and military family housing
17 projects, are hereby authorized.

703

18 SEC. _____. (a) Notwithstanding 38 U.S.C. 2102, the
19 Secretary of Veterans Affairs may make a grant to a vet-
20 eran whose home was previously adapted with the assist-
21 ance of a grant under chapter 21 of title 38, United States
22 Code, in the event the adapted home which was being used
23 and occupied by the veteran was destroyed or substantially
24 damaged in the declared disaster areas as a result of hur-
25 ricanes in the Gulf of Mexico in calendar year 2005, as

1 determined by the President under the Disaster Relief and
 2 Emergency Assistance Act (42 U.S.C. 5121 et seq.). The
 3 grant is available to acquire a suitable housing unit with
 4 special fixtures or moveable facilities made necessary by
 5 the veteran's disability, and necessary land therefor. This
 6 authority expires on September 30, 2006: *Provided*, That
 7 the amount provided under this heading is designated as
 8 an emergency requirement pursuant to section 402 of H.
 9 Con. Res. 95 (109th Congress), the concurrent resolution
 10 on the budget for fiscal year 2006.

11 (b) The amount of the grant authorized by this sub-
 12 section may not exceed the lesser of:

13 (1) the reasonable cost, as determined by the
 14 Secretary of Veterans Affairs, of repairing or replac-
 15 ing the adapted home in excess of the available in-
 16 surance coverage on the damaged or destroyed
 17 home; or

18 (2) the maximum grant to which the veteran
 19 would have been entitled under 38 U.S.C. 2102 (a)
 20 or (b) had the veteran not obtained the prior grant.

21 SEC. _____. In any case where the Secretary of Vet-
 22 erans Affairs determines that a veteran described in 38
 23 U.S.C. 3108(a)(2) has been displaced as the result of hur-
 24 ricanes in the Gulf of Mexico in calendar year 2005, from
 25 the disaster area, as determined by the President under

704)

1 the Disaster Relief and Emergency Assistance Act (42
2 U.S.C. 5121 et seq.), the Secretary may extend the pay-
3 ment of subsistence allowance authorized by such para-
4 graph for up to an additional two months while the vet-
5 eran is satisfactorily following such program of employ-
6 ment services. This authority expires on September 30,
7 2006: *Provided*, That the amount provided under this
8 heading is designated as an emergency requirement pursu-
9 ant to section 402 of H. Con. Res. 95 (109th Congress),
10 the concurrent resolution on the budget for fiscal year
11 2006.

705) ~~12 SEC. _____.~~ The annual limitation contained in 38
13 U.S.C. 3120(e) shall not apply in any case where the Sec-
14 retary of Veterans Affairs determines that a veteran de-
15 scribed in 38 U.S.C. 3120(b) has been displaced as the
16 result of, or has otherwise been adversely affected in the
17 areas covered by hurricanes in the Gulf of Mexico in cal-
18 endar year 2005, as determined by the President under
19 the Disaster Relief and Emergency Assistance Act (42
20 U.S.C. 5121 et seq.). This authority expires on September
21 30, 2006: *Provided*, That the amount provided under this
22 heading is designated as an emergency requirement pursu-
23 ant to section 402 of H. Con. Res. 95 (109th Congress),
24 the concurrent resolution on the budget for fiscal year
25 2006.

706) 1 SEC. _____. Notwithstanding 38 U.S.C. 3903(a), the
2 Secretary of Veterans Affairs may provide or assist in pro-
3 viding an eligible person with a second automobile or other
4 conveyance under the provisions of chapter 39 of title 38
5 United States Code, if the Secretary receives satisfactory
6 evidence that the automobile or other conveyance pre-
7 viously purchased with assistance under such chapter was
8 destroyed as a result of hurricanes in the Gulf of Mexico
9 in calendar year 2005, and through no fault of the eligible
10 person: *Provided*, That that person does not otherwise re-
11 ceive from a property insurer compensation for the loss.
12 This authority expires on September 30, 2006: *Provided*
13 *further*, That the amount provided under this heading is
14 designated as an emergency requirement pursuant to sec-
15 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
16 rent resolution on the budget for fiscal year 2006.

17 SEC. _____. The last paragraph of Public Law 109-
18 114 is amended by inserting "Military Construction," be-
19 fore "Military Quality".

12/17/05

1

CHAPTER

2

DEPARTMENT OF JUSTICE

3

LEGAL ACTIVITIES

4

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

5

For an additional amount for "Salaries and Ex-

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penses, United States Attorneys", \$9,000,000, for nec-

7

essary expenses related to the consequences of hurricanes

8

in the Gulf of Mexico in calendar year 2005: *Provided,*

9

That the amount provided under this heading is des-

10

ignated as an emergency requirement pursuant to section

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402 of H. Con. Res. 95 (109th Congress), the concurrent

12

resolution on the budget for fiscal year 2006.

13

UNITED STATES MARSHALS SERVICE

14

SALARIES AND EXPENSES

15

For an additional amount for "Salaries and Ex-

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penses", \$9,000,000, for necessary expenses related to the

17

consequences of hurricanes in the Gulf of Mexico in cal-

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endar year 2005: *Provided,* That the amount provided

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under this heading is designated as an emergency require-

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ment pursuant to section 402 of H. Con. Res. 95 (109th

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Congress), the concurrent resolution on the budget for fis-

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cal year 2006.

1 FEDERAL BUREAU OF INVESTIGATION

2 SALARIES AND EXPENSES

3 For an additional amount for "Salaries and Ex-
4 penses", \$45,000,000, for necessary expenses related to
5 the consequences of hurricanes in the Gulf of Mexico in
6 calendar year 2005: *Provided*, That the amount provided
7 under this heading is designated as an emergency require-
8 ment pursuant to section 402 of H. Con. Res. 95 (109th
9 Congress), the concurrent resolution on the budget for fis-
10 cal year 2006.

11 DRUG ENFORCEMENT ADMINISTRATION

12 SALARIES AND EXPENSES

13 For an additional amount for "Salaries and Ex-
14 penses", \$10,000,000, for necessary expenses related to
15 the consequences of hurricanes in the Gulf of Mexico in
16 calendar year 2005: *Provided*, That the amount provided
17 under this heading is designated as an emergency require-
18 ment pursuant to section 402 of H. Con. Res. 95 (109th
19 Congress), the concurrent resolution on the budget for fis-
20 cal year 2006.

21 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND

22 EXPLOSIVES

23 SALARIES AND EXPENSES

24 For an additional amount for "Salaries and Ex-
25 penses", \$20,000,000, for necessary expenses related to

1 the consequences of hurricanes in the Gulf of Mexico in
2 calendar year 2005: *Provided*, That the amount provided
3 under this heading is designated as an emergency require-
4 ment pursuant to section 402 of H. Con. Res. 95 (109th
5 Congress), the concurrent resolution on the budget for fis-
6 cal year 2006.

7 FEDERAL PRISON SYSTEM

8 BUILDINGS AND FACILITIES

9 For an additional amount for "Buildings and Facili-
10 ties", \$11,000,000, to remain available until expended, for
11 necessary expenses related to the consequences of hurri-
12 canes in the Gulf of Mexico in calendar year 2005: *Pro-*
13 *vided*, That the amount provided under this heading is
14 designated as an emergency requirement pursuant to sec-
15 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
16 rent resolution on the budget for fiscal year 2006.

17 OFFICE OF JUSTICE PROGRAMS

18 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

19 For an additional amount for "State and Local Law
20 Enforcement Assistance", \$125,000,000, for necessary ex-
21 penses related to the direct or indirect consequences of
22 hurricanes in the Gulf of Mexico in calendar year 2005,
23 to remain available until expended: *Provided*, That the
24 amount provided under this heading is designated as an
25 emergency requirement pursuant to section 402 of H.

1 Con. Res. 95 (109th Congress), the concurrent resolution
2 on the budget for fiscal year 2006: *Provided further*, That
3 the Attorney General shall consult with the Committee on
4 Appropriations of the Senate and the Committee on Ap-
5 propriations of the House of Representatives on the alloca-
6 tion of funds prior to expenditure.

7 DEPARTMENT OF COMMERCE

8 NATIONAL OCEANIC AND ATMOSPHERIC

9 ADMINISTRATION

10 OPERATIONS, RESEARCH, AND FACILITIES

11 For an additional amount for "Operations, Research,
12 and Facilities", \$17,200,000, to remain available until ex-
13 pended, for necessary expenses related to the consequences
14 of hurricanes in the Gulf of Mexico in calendar year 2005:
15 *Provided*, That the amount provided under this heading
16 is designated as an emergency requirement pursuant to
17 section 402 of H. Con. Res. 95 (109th Congress), the con-
18 current resolution on the budget for fiscal year 2006.

19 PROCUREMENT, ACQUISITION AND CONSTRUCTION

20 For an additional amount for "Procurement, Acquisi-
21 tion and Construction", \$37,400,000, to remain available
22 until expended, for necessary expenses related to the con-
23 sequences of hurricanes in the Gulf of Mexico in calendar
24 year 2005: *Provided*, That the amount provided under this
25 heading is designated as an emergency requirement pursu-
26 ant to section 402 of H. Con. Res. 95 (109th Congress),

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1 the concurrent resolution on the budget for fiscal year
2 2006.

3 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
4 EXPLORATION CAPABILITIES

5 For an additional amount for "Exploration Capabili-
6 ties", \$349,800,000, to remain available until expended,
7 for necessary expenses related to the consequences of hur-
8 ricanes in the Gulf of Mexico in calendar year 2005 ~~to~~

9 ~~include reimbursement of paid administrative leave and~~
10 ~~related indirect costs for contractor employees: *Provided,*~~

11 That the amount provided under this heading is des-
12 ignated as an emergency requirement pursuant to section
13 402 of H. Con. Res. 95 (109th Congress), the concurrent
14 resolution on the budget for fiscal year 2006.

15 ~~RELATED AGENCY~~

16 SMALL BUSINESS ADMINISTRATION

17 OFFICE OF INSPECTOR GENERAL

18 For an additional amount for the "Office of Inspector
19 General" for necessary expenses related to the con-
20 sequences of hurricanes in the Gulf of Mexico in calendar
21 year 2005, \$5,000,000, to remain available until ex-
22 pended: *Provided,* That the amount provided under this
23 heading is designated as an emergency requirement pursu-
24 ant to section 402 of H. Con. Res. 95 (109th Congress),

1 the concurrent resolution on the budget for fiscal year
2 2006.

SC
I (INCLUDING TRANSFER OF FUNDS) E

3 DISASTER LOANS PROGRAM ACCOUNT

4 For an additional amount for the "Disaster Loans
5 Program Account" authorized by section 7(b) of the Small
6 Business Act, for necessary expenses related to hurricanes
7 in the Gulf of Mexico in calendar year 2005 and other
8 natural disasters, \$264,500,000, to remain available until
9 expended: *Provided*, That such costs, including the cost
10 of modifying such loans shall be as defined in section 502
11 of the Congressional Budget Act of 1974.

12 In addition, for administrative expenses to carry out
13 the direct loan program authorized by section 7(b),
14 \$176,500,000, to remain available until expended, which
15 may be transferred to and merged with "Salaries and Ex-
16 penses": *Provided*, That the amounts provided under this
17 heading are designated as an emergency requirement pur-
18 suant to section 402 of H. Con. Res. 95 (109th Congress),
19 the concurrent resolution on the budget for fiscal year
20 2006: *Provided further*, That no funds shall be transferred

21 to the appropriation for "Salaries and Expenses" for indi-
22 rect administrative expenses.

SC
I (INCLUDING TRANSFER OF FUNDS) E

23 GENERAL PROVISION

ALL OPS

OS - THIS CHAPTER

24 SEC. . Of the unobligated balances available to
25 the "National Institute of Standards and Technology, In-
26 dustrial Technology Services" for the Hollings Manufac-

Under

801

12/17/05

1 turing Extension Partnership Program, \$4,500,000 shall
2 be used to assist manufacturers recovering from hurri-
3 canes in the Gulf of Mexico in calendar year 2005: *Pro-*
4 *vided*, That only Manufacturing Extension Centers in
5 States affected by hurricanes in the Gulf of Mexico in cal-
6 endar year 2005 shall be eligible for hurricane recovery
7 assistance funds: *Provided further*, That these funds shall
8 be allocated to the Manufacturing Extension Centers in
9 these States based on an assessment of the needs of manu-
10 facturers in the counties declared a disaster by the Federal
11 Emergency Management Agency: *Provided further*, That
12 employment and productivity shall be among the metrics
13 used in developing the needs assessment: *Provided further*,

INSERT
7a

14 ~~That of the amounts provided to Manufacturing Extension~~
15 ~~Centers in States affected by hurricanes in the Gulf of~~
16 ~~Mexico in calendar year 2005 by this Act and by Public~~
17 ~~Law 109-108 the matching provisions of 15 U.S.C.~~
18 ~~278(k) paragraph (c) shall not apply.~~

INSERT
7b

7a

or } the matching provisions of 15 U.S.C. 278(k) paragraph (c) shall not apply to amounts provided by this Act and by Public Law 109-108 to Manufacturing Extension Centers serving areas affected by hurricanes in the Gulf of Mexico in calendar year 2005

76

802) SEC. ~~XXX~~. The Attorney General shall transfer to the "Narrowband

Communications/Integrated Wireless Network" account all funds made available in this

Act to the Department of Justice for the purchase of portable and mobile radios and

related infrastructure. Any transfer made under this section shall be subject to section

605 of Public Law 109-108.

1

CHAPTER (9)

2

DEPARTMENT OF TRANSPORTATION

3

FEDERAL AVIATION ADMINISTRATION

4

FACILITIES AND EQUIPMENT

5

(AIRPORT AND AIRWAY TRUST FUND)

6

For an additional amount for "Facilities and equip-
7 ment", \$40,600,000, to be derived from the Airport and
8 Airway Trust Fund and to remain available until ex-
9 pended, for necessary expenses related to the consequences
10 of hurricanes in the Gulf of Mexico during calendar year
11 2005: *Provided*, That the amount provided under this
12 heading is designated as an emergency requirement pursu-
13 ant to section 402 of H. Con. Res. 95 (109th Congress),
14 the concurrent resolution on the budget for fiscal year
15 2006.

16

FEDERAL HIGHWAY ADMINISTRATION

17

EMERGENCY RELIEF PROGRAM

18

For an additional amount for "Emergency relief pro-
19 gram" as authorized under 23 U.S.C. 125,
20 \$2,750,000,000, to remain available until expended, for
21 necessary expenses related to the consequences of Hurri-
22 canes Katrina, Rita, and Wilma: *Provided*, That of the
23 funds provided herein, up to \$629,000,000 shall be avail-
24 able to repair and reconstruct the I-10 bridge spanning
25 New Orleans and Slidell, Louisiana in accordance with
26 current design standards as contained in 23 U.S.C. 125:

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1 *Provided further*, That notwithstanding 23 U.S.C. 120(e)
2 and from funds provided herein, the Federal share for all
3 projects for repairs or reconstruction of highways, roads,
4 bridges, and trails to respond to damage caused by Hurri-
5 canes Katrina, Rita, and Wilma shall be 100 percent: *Pro-*
6 *vided further*, That notwithstanding 23 U.S.C. 125(d)(1),
7 the Secretary of Transportation may obligate more than
8 \$100,000,000 for such projects in a State in a fiscal year,
9 to respond to damage caused by Hurricanes Dennis,
10 Katrina, Rita or Wilma and by the 2004–2005 winter
11 storms in the State of California: *Provided further*, That
12 any amounts in excess of those necessary for emergency
13 expenses relating to the above hurricanes may be used for
14 other projects authorized under 23 U.S.C. 125: *Provided*
15 *further*, That such amounts as may be necessary but not
16 to exceed \$550,000,000 may be made available promptly
17 from the funds provided herein to pay for other projects
18 authorized under 23 U.S.C. 125 arising from natural dis-
19 asters or catastrophic failures from external causes that
20 occurred prior to Hurricane Wilma and that are ready to
21 proceed to construction or are eligible for reimbursement:
22 *Provided further*, That the amounts provided under this
23 heading are designated as an emergency requirement pur-
24 suant to section 402 of H. Con. Res. 95 (109th Congress),

1 the concurrent resolution on the budget for fiscal year
2 2006.

3 MARITIME ADMINISTRATION
4 OPERATIONS AND TRAINING

5 For an additional amount for "Operations and train-
6 ing", \$7,500,000, to remain available until September 30,
7 2007, for necessary expenses related to the consequences
8 of hurricanes in the Gulf of Mexico during calendar year
9 2005: *Provided*, That the amount provided under this
10 heading is designated as an emergency requirement pursu-
11 ant to section 402 of H. Con. Res. 95 (109th Congress),
12 the concurrent resolution on the budget for fiscal year
13 2006.

14 DEPARTMENT OF HOUSING AND URBAN
15 DEVELOPMENT

16 PUBLIC AND INDIAN HOUSING PROGRAMS
17 TENANT-BASED RENTAL ASSISTANCE

n additional amount for

18 For housing vouchers for households within the area
19 declared a major disaster under the Robert T. Stafford
20 Disaster Relief and Emergency Act (42 U.S.C. 5121 et
21 seq.) resulting from hurricanes in the Gulf of Mexico dur-
22 ing calendar year 2005, \$390,299,500, to remain available
23 until September 30, 2007: *Provided*, That such households
24 shall be limited to those which, prior to Hurricanes
25 Katrina or Rita, received assistance under section 8 or 9

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4

1 of the United States Housing Act of 1937 (Public Law
2 93-383), section 801 or 811 of the Cranston-Gonzalez
3 National Affordable Housing Act (Public Law 101-625),
4 the AIDS Housing Opportunity Act (Public Law 101-
5 625), or the Stewart B. McKinney Homeless Assistance
6 Act (Public Law 100-77); or those which were homeless
7 or in emergency shelters in the declared disaster area prior
8 to Hurricanes Katrina or Rita: *Provided further*, That
9 these funds are available for assistance, under section 8(o)
10 of the United States Housing Act of 1937: *Provided fur-*
11 *ther*, That in administering assistance under this heading
12 the Secretary of Housing and Urban Development may
13 waive requirements for income eligibility and tenant con-
14 tribution under section 8 of such Act for up to 18 months:
15 *Provided further*, That all households receiving housing
16 vouchers under this heading shall be eligible to reoccupy
17 their previous assisted housing, if and when it becomes
18 available: *Provided further*, That the amount provided
19 under this heading is designated as an emergency require-
20 ment pursuant to section 402 of H. Con. Res. 95 (109th
21 Congress), the concurrent resolution on the budget for fis-
22 cal year 2006.

1 COMMUNITY PLANNING AND DEVELOPMENT

2 COMMUNITY DEVELOPMENT FUND

3 For an additional amount for the "Community devel-
4 opment fund", for necessary expenses related to disaster
5 relief, long-term recovery, restoration of infrastructure,

6 ~~and mitigation in communities in any area in Louisiana,~~
7 ~~Mississippi, Alabama, Florida, and Texas~~ for which the

8 President declared a major disaster ~~or emergency~~ under
9 title IV of the Robert T. Stafford Disaster Relief and
10 Emergency Assistance Act (42 U.S.C. 5121 et seq.) in
11 conjunction with Hurricanes Katrina, Rita, or Wilma,
12 \$11,500,000,000, to remain available until expended, for
13 activities authorized under title I of the Housing and Com-
14 munity Development Act of 1974 (Public Law 93-383):

15 *Provided*, That ~~of this amount, \$6,200,000,000 shall be~~
16 ~~allocated by the Secretary to the State of Louisiana,~~
17 ~~\$5,100,000,000 shall be allocated to the State of Mis-~~
18 ~~issippi, and \$200,000,000 shall be allocated to the States~~
19 ~~of Alabama, Florida, and Texas:~~ *Provided further*, That

20 funds allocated under this heading ~~to the States of Loui-~~
21 ~~isiana, Mississippi, Alabama, Florida, and Texas~~ shall be
22 administered through an entity or entities designated by
23 the Governor of each State: *Provided further*, That such
24 funds may not be used for activities reimbursable by or
25 for which funds are made available by the Federal Emer-

in states

rovided

and
in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005

No state shall receive more than 54 percent of the amount provided under this heading

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1 gency Management Agency: *Provided further*, That funds
2 allocated under this heading shall not adversely affect the
3 amount of any formula assistance received by a State
4 under this heading: *Provided further*, That each State may
5 use up to five percent of its allocation for administrative
6 costs: *Provided further*, That Louisiana and Mississippi
7 may each use up to \$20,000,000 (with up to \$400,000
8 each for technical assistance) from funds made available
9 under this heading for LISC and the Enterprise Founda-
10 tion for activities authorized by section 4 of the HUD
11 Demonstration Act of 1993 (42 U.S.C. 9816 note), as in
12 effect immediately before June 12, 1997, and for activities
13 authorized under section 11 of the Housing Opportunity
14 Program Extension Act of 1996, including demolition, site
15 clearance and remediation, and program administration:
16 *Provided further*, That in administering the funds under
17 this heading, the Secretary of Housing and Urban Devel-
18 opment shall waive, or specify alternative requirements
19 for, any provision of any statute or regulation that the
20 Secretary administers in connection with the obligation by
21 the Secretary or the use by the recipient of these funds
22 or guarantees (except for requirements related to fair
23 housing, nondiscrimination, labor standards, and the envi-
24 ronment), upon a request by the State that such waiver
25 is required to facilitate the use of such funds or guaran-

or the
Army
Corps of
Engineers

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1 tees, and a finding by the Secretary that such waiver
2 would not be inconsistent with the overall purpose of the
3 statute, as modified: *Provided further*, That the Secretary
4 may waive the requirement that activities benefit persons
5 of low and moderate income, except that at least 50 per-
6 cent of the funds made available under this heading must
7 benefit primarily persons of low and moderate income un-
8 less the Secretary otherwise makes a finding of compelling
9 need: *Provided further*, That the Secretary shall publish
10 in the Federal Register any waiver of any statute or regu-
11 lation that the Secretary administers pursuant to title I
12 of the Housing and Community Development Act of 1974
13 no later than 5 days before the effective date of such waiv-
14 er: *Provided further*, That every waiver made by the Sec-
15 retary must be reconsidered according to the three pre-
16 vious provisos on the two-year anniversary of the day the
17 Secretary published the waiver in the Federal Register:
18 *Provided further*, That each state shall submit a plan to
19 the Secretary detailing the proposed use of all funds, in-
20 cluding criteria for eligibility and how the use of these
21 funds will address long-term recovery, restoration of infra-
22 structure ~~and mitigation requirements~~: *Provided further*,
23 That each state will report quarterly to the Committees
24 on Appropriations on all awards and uses of funds made
25 available under this heading, including specifically identi-

and

prior to the obligation of funds

1 fying all awards of sole-source contracts and the rationale
 2 for making the award on a sole-source basis: *Provided fur-*
 3 *ther*, That the Secretary shall notify the Committees on
 4 Appropriations on any waivers made pursuant to these
 5 provisions under this heading no later than 5 days before
 6 such waiver is made: *Provided further*, That the Secretary
 7 shall establish procedures to prevent recipients from re-
 8 ceiving any duplication of benefits and report quarterly to
 9 the Committees on Appropriations with regard to all steps
 10 taken to prevent fraud and abuse of funds made available
 11 under this heading including duplication of benefits: *Pro-*
 12 *vided further*, That the amounts provided under this head-
 13 ing are designated as an emergency requirement pursuant
 14 to section 402 of H. Con. Res. 95 (109th Congress), the
 15 concurrent resolution on the budget for fiscal year 2006.

Proposed
 allocation
 of any
 funds and
 any
 related

16 ADMINISTRATIVE PROVISIONS, ~~DEPARTMENT OF~~
 17 ~~HOUSING AND URBAN DEVELOPMENT~~

901)

18 SEC. _____. Notwithstanding provisions of the United
 19 States Housing Act of 1937 (Public Law 93-383), in
 20 order to assist public housing agencies located within the
 21 most heavily impacted areas of Louisiana and Mississippi
 22 that are subject to a declaration by the President of a
 23 major disaster under the Robert T. Stafford Disaster Re-
 24 lief and Emergency Assistance Act (42 U.S.C. 5121 et
 25 seq.) in connection with Hurricanes Katrina or Rita, the

1 Secretary for calendar year 2006 may authorize a public
2 housing agency to combine assistance provided under sec-
3 tions 9(d) and (e) of the United States Housing Act of
4 1937 and assistance provided under section 8(o) of such
5 Act, for the purpose of facilitating the prompt, flexible and
6 efficient use of funds provided under these sections of the
7 Act to assist families who were receiving housing assist-
8 ance under the Act immediately prior to Hurricanes
9 Katrina or Rita and were displaced from their housing by
10 the hurricanes.

902) SEC. _____. To the extent feasible the Secretary of
12 Housing and Urban Development shall preserve all hous-
13 ing within the area declared a major disaster under the
14 Robert T. Stafford Disaster Relief and Emergency Act
15 (42 U.S.C. 5121 et seq.) resulting from Hurricanes
16 Katrina or Rita that received project-based assistance
17 under section 8 or 9 of the United States Housing Act
18 of 1937, section 801 or 811 of the Cranston-Gonzalez Na-
19 tional Affordable Housing Act, the AIDS Housing Oppor-
20 tunity Act, or the Stewart B. McKinney Homeless Assist-
21 ance Act: *Provided*, That the Secretary shall report to the
22 Committees on Appropriations on the status of all such
23 housing, including costs associated with any repair or re-
24 habilitation, within 120 days of enactment of this Act.

1 THE JUDICIARY
2 COURTS OF APPEALS, DISTRICT COURTS, AND OTHER
3 JUDICIAL SERVICES
4 SALARIES AND EXPENSES

5 For an additional amount for "Salaries and expenses,
6 Courts of Appeals, District Courts, and Other Judicial
7 Services", \$18,000,000, to remain available until ex-
8 pended, for necessary expenses related to the consequences
9 of hurricanes in the Gulf of Mexico during calendar year
10 2005: *Provided*, That notwithstanding any other provision
11 of law such sums shall be available for transfer to accounts
12 within the Judiciary subject to approval of the Judiciary
13 operating plan: *Provided further*, That the amount pro-
14 vided under this heading is designated as an emergency
15 requirement pursuant to section 402 of H. Con. Res. 95
16 (109th Congress), the concurrent resolution on the budget
17 for fiscal year 2006.

18 INDEPENDENT AGENCY
19 GENERAL SERVICES ADMINISTRATION
20 FEDERAL BUILDINGS FUND

21 For an additional amount for "Federal buildings
22 fund", \$38,000,000, ~~to remain available until expended~~
23 from the General Fund and to remain available until ex-
24 pended, for necessary expenses related to the consequences
25 of hurricanes in the Gulf of Mexico during calendar year

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SEN. APPROP.

11

1 2005: *Provided*, That notwithstanding 40 U.S.C. 3307,
2 the Administrator of General Services is authorized to pro-
3 ceed with repairs and alterations for those facilities: *Pro-*
4 *vided further*, That the the amount provided under this
5 heading is designated as an emergency requirement pursu-
6 ant to section 402 of H. Con. Res. 95 (109th Congress),
7 the concurrent resolution on the budget for fiscal year
8 2006.

1 TITLE II
 2 EMERGENCY SUPPLEMENTAL APPROPRIATIONS
 3 TO ADDRESS PANDEMIC INFLUENZA
 4 CHAPTER 1
 5 DEPARTMENT OF AGRICULTURE
 6 OFFICE OF THE SECRETARY

7 For an additional amount for the "Office of the Sec-
 8 retary", related to the detection of and response to highly
 9 pathogenic avian influenza, including research and devel-
 10 opment, \$11,350,000, to remain available until September
 11 30, 2007: *Provided*, That the amount provided under this
 12 heading is designated as an emergency requirement pursu-
 13 ant to section 402 of H. Con. Res. 95 (109th Congress),
 14 the concurrent resolution on the budget for fiscal year
 15 2006.

16 AGRICULTURAL RESEARCH SERVICE
 17 SALARIES AND EXPENSES

18 For an additional amount for "Salaries and Ex-
 19 penses", related to the detection of and response to highly
 20 pathogenic avian influenza, including research and devel-
 21 opment, \$7,000,000, to remain available until September
 22 30, 2007: *Provided*, That the amount provided under this
 23 heading is designated as an emergency requirement pursu-
 24 ant to section 402 of H. Con. Res. 95 (109th Congress),

1 the concurrent resolution on the budget for fiscal year
2 2006.

3 COOPERATIVE STATE RESEARCH, EDUCATION, AND
4 EXTENSION SERVICE
5 RESEARCH AND EDUCATION ACTIVITIES

6 For an additional amount for "Research and Edu-
7 cation Activities", related to the detection of and response
8 to highly pathogenic avian influenza, \$1,500,000, to re-
9 main available until September 30, 2007: *Provided*, That
10 the amount provided under this heading is designated as
11 an emergency requirement pursuant to section 402 of H.
12 Con. Res. 95 (109th Congress), the concurrent resolution
13 on the budget for fiscal year 2006.

14 ANIMAL AND PLANT HEALTH INSPECTION SERVICE
15 SALARIES AND EXPENSES

16 For an additional amount for "Salaries and Ex-
17 penses", related to the detection of and response to highly
18 pathogenic avian influenza, \$71,500,000, to remain avail-
19 able until September 30, 2007: *Provided*, That the amount
20 provided under this heading is designated as an emergency
21 requirement pursuant to section 402 of H. Con. Res. 95
22 (109th Congress), the concurrent resolution on the budget
23 for fiscal year 2006.

1 DEPARTMENT OF HEALTH AND HUMAN
2 SERVICES
3 FOOD AND DRUG ADMINISTRATION
4 SALARIES AND EXPENSES

5 For an additional amount for "Food and Drug Ad-
6 ministration, Salaries and Expenses", to prepare for and
7 respond to an influenza pandemic, \$20,000,000, to remain
8 available until September 30, 2007: *Provided*, That of the
9 total amount appropriated \$18,000,000 shall be for the
10 Center for Biologics Evaluation and Research and for re-
11 lated field activities in the Office of Regulatory Affairs,
12 and \$2,000,000 shall be for other activities including the
13 Office of the Commissioner and the Office of Management:
14 *Provided further*, That the amounts provided under this
15 heading are designated as an emergency requirement pur-
16 suant to section 402 of H. Con. Res. 95 (109th Congress),
17 the concurrent resolution on the budget for fiscal year
18 2006.

12/17/05

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CHAPTER

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide" for surveillance, communication equipment, and assistance to military partner nations in procuring protective equipment, \$10,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

~~OTHER DEFENSE~~ DEPARTMENT PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program" for necessary expenses related to vaccine purchases, storage, expanded avian influenza surveillance programs, equipment, essential information management systems, and laboratory diagnostic equipment, \$120,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

2

OF DEFENSE

1 CHAPTER 3
2 BILATERAL ECONOMIC ASSISTANCE
3 FUNDS APPROPRIATED TO THE PRESIDENT
4 UNITED STATES AGENCY FOR INTERNATIONAL
5 DEVELOPMENT
6 CHILD SURVIVAL AND HEALTH PROGRAMS FUND
7 For an additional amount for "Child Survival and
8 Health Programs Fund" for activities related to surveil-
9 lance, planning, preparedness, and response to the avian
10 influenza virus, \$75,200,000, to remain available until ex-
11 pended: *Provided*, That funds appropriated by this para-
12 graph may be obligated and expended notwithstanding
13 section 10 of Public Law 91-672: *Provided further*, That
14 the amount provided under this heading is designated as
15 an emergency requirement pursuant to section 402 of H.
16 Con. Res. 95 (109th Congress), the concurrent resolution
17 on the budget for fiscal year 2006.
18 INTERNATIONAL DISASTER AND FAMINE ASSISTANCE
19 For an additional amount for "International Disaster
20 and Famine Assistance" for the pre-positioning and de-
21 ployment of essential supplies and equipment for pre-
22 paredness and response to the avian influenza virus,
23 \$56,330,000, to remain available until expended: *Pro-*
24 *vided*, That funds appropriated by this paragraph may be
25 obligated and expended notwithstanding section 10 of
26 Public Law 91-672: *Provided further*, That the amount

12/17/05

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1 provided under this heading is designated as an emergency
2 requirement pursuant to section 402 of H. Con. Res. 95
3 (109th Congress), the concurrent resolution on the budget
4 for fiscal year 2006.

12/17/05

1 GENERAL PROVISION,

2 SEC. . Within 30 days from the date of enact-
 3 ment of this Act and every six months thereafter, the Ad-
 4 ministrator of the United States Agency for International
 5 Development shall submit to the Committees on Appro-
 6 priations a report which identifies, for all projects funded
 7 from amounts appropriated by this Act that are adminis-
 8 tered by that agency, the following: the program objectives
 9 for each such project, the approximate timeline for achiev-
 10 ing each of those objectives, the amounts obligated and
 11 expended for each project, and the current status of pro-
 12 gram performance with reference to identified program
 13 objectives and the timeline for achieving those objectives.

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THIS CHAPTER

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HOUSE

1 DEPARTMENT OF HOMELAND SECURITY
2 OFFICE OF THE SECRETARY AND EXECUTIVE
3 MANAGEMENT

CHAPTER 4

4 For an additional amount for "Office of the Secretary
5 and Executive Management", \$47,283,000, to remain
6 available until expended, for necessary expenses to train,
7 plan, and prepare for a potential outbreak of highly patho-
8 genic influenza: *Provided*, That these funds may be trans-
9 ferred to other Department of Homeland Security appro-
10 priations accounts in accordance with section 503 of Pub-
11 lic Law 109-90: *Provided further*, That the amount pro-
12 vided herein is designated as an emergency requirement
13 pursuant to section 402 of H. Con. Res. 95 (109th Con-
14 gress), the concurrent resolution on the budget for fiscal
15 year 2006.

12/17/05

1] CHAPTER 5 Σ
2 DEPARTMENT OF THE INTERIOR

3 UNITED STATES FISH AND WILDLIFE SERVICE
4 RESOURCE MANAGEMENT

5 For an additional amount for "Resource Manage-
6 ment" for the detection of highly pathogenic avian influ-
7 enza in wild birds, including the investigation of morbidity
8 and mortality events, targeted surveillance in live wild
9 birds, and targeted surveillance in hunter-taken birds,
10 \$7,398,000, to remain available until September 30, 2007:
11 *Provided*, That the amount provided under this heading
12 is designated as an emergency requirement pursuant to
13 section 402 of H. Con. Res. 95 (109th Congress), the con-
14 current resolution on the budget for fiscal year 2006.

15 NATIONAL PARK SERVICE
16 OPERATION OF THE NATIONAL PARK SYSTEM

17 For an additional amount for "Operation of the Na-
18 tional Park System" for the detection of highly pathogenic
19 avian influenza in wild birds, including the investigation
20 of morbidity and mortality events, \$525,000, to remain
21 available until September 30, 2007: *Provided*, That the
22 amount provided under this heading is designated as an
23 emergency requirement pursuant to section 402 of H.
24 Con. Res. 95 (109th Congress), the concurrent resolution
on the budget for fiscal year 2006.

12/17/05

1 UNITED STATES GEOLOGICAL SURVEY
2 SURVEYS, INVESTIGATIONS, AND RESEARCH
3 For an additional amount for “Surveys, Investiga-
4 tions, and Research” for the detection of highly patho-
5 genic avian influenza in wild birds, including the investiga-
6 tion of morbidity and mortality events, targeted surveil-
7 lance in live wild birds, and targeted surveillance in
8 hunter-taken birds, \$3,670,000, to remain available until
9 September 30, 2007: *Provided*, That the amount provided
10 under this heading is designated as an emergency require-
11 ment pursuant to section 402 of H. Con. Res. 95 (109th
12 Congress), the concurrent resolution on the budget for fis-
13 cal year 2006.

12/17/05

1 DEPARTMENT OF HEALTH AND HUMAN
 2 SERVICES
 3] office of the Secretary [~~DEPARTMENTAL MANAGEMENT~~
 4 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY
 5 FUND

CHAPTER 6

6 For an additional amount for "Public Health and So-
 7 cial Services Emergency Fund" to prepare for and re-
 8 spond to an influenza pandemic, including the develop-
 9 ment and purchase of vaccines, antivirals, and necessary
 10 medical supplies, and for planning activities,
 11 \$3,054,000,000, to remain available until expended: *Pro-*
 12 *vided*, That \$350,000,000 shall be for Upgrading State
 13 and Local Capacity and \$50,000,000 shall be for labora-
 14 tory capacity and research at the Centers for Disease Con-
 15 trol and Prevention: *Provided further*, That products pur-
 16 chased with these funds may, at the discretion of the Sec-
 17 retary, be deposited in the Strategic National Stockpile:
 18 *Provided further*, That notwithstanding section 496(b) of
 19 the Public Health Service Act, funds may be used for the
 20 construction or renovation of privately owned facilities for
 21 the production of pandemic influenza vaccines, where the
 22 Secretary finds such a contract necessary to secure suffi-
 23 cient supplies of such vaccines: *Provided further*, That the
 24 Secretary may negotiate a contract with a vendor under
 25 which a State may place an order with the vendor for

and other biologicals
 or biologicals

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1 antivirals; may reimburse a State for a portion of the price
2 paid by the State pursuant to such an order; and may
3 use amounts made available herein for such reimburse-
4 ment: *Provided further*, That funds appropriated herein
5 and not specifically designated under this heading may be
6 transferred to other appropriation accounts of the Depart-
7 ment of Health and Human Services, as determined by
8 the Secretary to be appropriate, to be used for the pur-
9 poses specified in this sentence: *Provided further*, That the
10 amounts provided under this heading are designated as
11 an emergency requirement pursuant to section 402 of H.
12 Con. Res. 95 (109th Congress), the concurrent resolution
13 on the budget for fiscal year 2006.

14 For an additional amount for "Public Health and So-
15 cial Services Emergency Fund" for activities related to
16 pandemic influenza, including international activities and
17 activities in foreign countries, related to preparedness
18 planning, enhancing the pandemic influenza regulatory
19 science base, accelerating pandemic influenza disease sur-
20 veillance, developing registries to monitor influenza vac-
21 cine distribution and use, and supporting pandemic influ-
22 enza research, clinical trials and clinical trials infrastruc-
23 ture, \$246,000,000, of which \$150,000,000, to remain
24 available until expended, shall be for the Centers for Dis-
25 ease Control and Prevention to carry out global and do-

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1 mestic disease surveillance, laboratory diagnostics, rapid
2 response, and quarantine: *Provided*, That funds appro-
3 priated herein and not specifically designated under this
4 heading may be transferred to other appropriation ac-
5 counts of the Department of Health and Human Services,
6 as determined by the Secretary to be appropriate, to be
7 used for the purposes specified in this sentence: *Provided*
8 *further*, That the amounts provided under this heading are
9 designated as an emergency requirement pursuant to sec-
10 tion 402 of H. Con. Res. 95 (109th Congress), the concur-
11 rent resolution on the budget for fiscal year 2006.

12/17/05

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CHAPTER _____

(7

DEPARTMENT OF VETERANS AFFAIRS

~~MEDICAL PROGRAMS~~

MEDICAL SERVICES

(VETERANS
HEALTH
ADMINISTRATION

For an additional amount for "Medical Services" for enhanced avian influenza surveillance programs, planning functions and preparations for the pandemic and to establish real-time surveillance data exchange with the Centers for Disease Control and Prevention, \$27,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

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CHAPTER

DEPARTMENT OF STATE AND RELATED

AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Diplomatic and Consular Programs" to support avian influenza country coordination, development of an avian influenza response plan, diplomatic outreach, and health support of United States Government employees, Peace Corps volunteers, and eligible family members stationed abroad, \$16,000,000, to remain available until expended, of which \$1,100,000 shall be transferred to and merged with appropriations for the Peace Corps: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

8

1 EMERGENCIES IN THE DIPLOMATIC AND CONSULAR

2 SERVICE

3 For an additional amount for "Emergencies in the
4 Diplomatic and Consular Service" for emergency evacu-
5 ation support of United States Government personnel,
6 Peace Corps volunteers, and dependents in regions af-
7 fected by the avian influenza, \$15,000,000, to remain
8 available until expended: *Provided*, That funds appro-
9 priated by this paragraph may be obligated and expended
10 notwithstanding section 15 of the State Department Basic
11 Authorities Act of 1956: *Provided further*, That notwith-
12 standing section 402 of Public Law 109-108, upon a de-
13 termination by the Secretary of State that circumstances
14 related to the avian influenza require additional funding
15 for activities under this heading, the Secretary of State
16 may transfer such amounts to "Emergencies in the Diplo-
17 matic and Consular Service" from available appropriations
18 for the current fiscal year for the Department of State
19 as may be necessary to respond to such circumstances:
20 *Provided further*, That any transfer pursuant to the pre-
21 vious proviso shall be treated as a reprogramming of funds
22 under section 605 of Public Law 109-108 and shall not
23 be available for obligation or expenditure except in compli-
24 ance with the procedures set forth in that section, except
25 that the Committees on Appropriations shall be notified

12/17/05

16

1 not less than 5 days in advance of any such reprogram-
2 ming: *Provided further*, That the amount provided under
3 this heading is designated as an emergency requirement
4 pursuant to section 402 of H. Con. Res. 95 (109th Con-
5 gress), the concurrent resolution on the budget for fiscal
6 year 2006.

~~HOUSE~~

1 TITLE III
 2 RESCISSIONS AND OFFSETS
 3 DEPARTMENT OF AGRICULTURE
 4 NATURAL RESOURCES CONSERVATION SERVICE
 5 CONSERVATION OPERATIONS
 6 (RESCISSION)

CHAPTER 1

Insert
1a.

7 Of the unobligated balances available under this
 8 heading, \$10,000,000 are rescinded.

9 RURAL UTILITIES SERVICE

10 DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

11 ~~DIRECT LOAN FINANCING ACCOUNT~~

12 (RESCISSION)

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13 Of the unobligated balances available under this
 14 heading, \$9,920,000 are rescinded.

o)

15 ~~FOREIGN ASSISTANCE PROGRAMS~~ AGRICULTURE SERVICE

16 PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL

17 GRANTS

18 (RESCISSION)

19 Of the unobligated balances available under this
 20 heading, \$35,000,000 are rescinded.

21 FOOD AND NUTRITION SERVICE

22 FOOD STAMP PROGRAM

23 (RESCISSION)

24 Of unobligated balances available under this heading
 25 of funds provided pursuant to section 16(h)(1)(A) of the
 26 Food Stamp Act of 1977, \$11,200,000 are rescinded.

(1a)

: *Provided*, That funds for projects or activities identified in the Statement of Managers that accompanies House Report 109-255, pages 84 through 87, shall not be reduced due to such rescission

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CHAPTER

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DISPOSAL OF DEPARTMENT OF DEFENSE REAL
PROPERTY

(RESCISSION)

Of the unobligated balances available under this heading, \$45,000,000 are rescinded.

LEASE OF DEPARTMENT OF DEFENSE REAL PROPERTY
(RESCISSION)

Of the unobligated balances available under this heading, \$30,000,000 are rescinded.

OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY
(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

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12/17/05

House

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CHAPTER

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EXPORT-IMPORT BANK OF THE UNITED

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STATES

4

SUBSIDY APPROPRIATION

5

(RESCISSION)

6

Of the unobligated balances available under this

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heading in Public Law 109-102 and Public Law 108-447,

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\$25,000,000 are rescinded.

CHAPTER 4

1 DEPARTMENT OF HOMELAND SECURITY

2 UNITED STATES COAST GUARD

3 OPERATING EXPENSES

4 (RESCISSION OF FUNDS)

5 Of the funds appropriated under this heading in Pub-
6 lic Law 109-90, \$260,533,000 are rescinded.

7 FEDERAL EMERGENCY MANAGEMENT AGENCY

8 DISASTER RELIEF

9 (RESCISSION OF FUNDS)

10 Of the funds appropriated under this heading in Pub-
11 lic Law 109-62, ~~\$24,000,000,000~~ are rescinded.

(23,409,300,000)

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] CHAPTER 5 [

1 DEPARTMENT OF THE INTERIOR

2 BUREAU OF LAND MANAGEMENT

3 MANAGEMENT OF LANDS AND RESOURCES

4 (RESCISSION)

5 Of the unobligated balances available under this
6 heading, \$500,000 are rescinded.

7 UNITED STATES FISH AND WILDLIFE SERVICE

8 LANDOWNER INCENTIVE PROGRAM

9 (RESCISSION)

10 Of the unobligated balances available under this
11 heading, \$2,000,000 are rescinded.

12 COOPERATIVE ENDANGERED SPECIES CONSERVATION

13 FUND

14 (RESCISSION)

15 Of the unobligated balances available under this
16 heading, \$1,000,000 are rescinded.

12/17/05

HOUSE

1 CHAPTER
2 DEPARTMENT OF COMMERCE
3 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
4 INDUSTRIAL TECHNOLOGY SERVICES
5 (RESCISSION)

6

6 Of the unobligated balances available under this
7 heading for the ~~Hollings Manufacturing Extension Part-~~
8 ~~nership Program of the National Institute of Standards~~
9 ~~and Technology~~, \$7,000,000 are rescinded.

12/17/05

House

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1 DEPARTMENT OF STATE
2 ADMINISTRATION OF FOREIGN AFFAIRS
3 DIPLOMATIC AND CONSULAR PROGRAMS
4 (RESCISSION)

5 Of the unobligated balances available under this
6 heading, \$10,000,000 are rescinded.

7 EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE
8 (RESCISSION)

9 Of the unobligated balances available under this
10 heading, \$20,000,000 are rescinded.

12/17/05

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1 CHAPTER 7
2 DEPARTMENT OF TRANSPORTATION
3 FEDERAL HIGHWAY ADMINISTRATION
4 FEDERAL-AID HIGHWAYS
5 (HIGHWAY TRUST FUND)
6 (RESCISSION)

7 Of the unobligated balances of funds apportioned to
8 each State under chapter 1 of title 23, United States
9 Code, \$1,143,000,000 are rescinded: *Provided*, That such
10 rescission shall not apply to the funds distributed in ac-
11 cordance with 23 U.S.C. 130(f), 23 U.S.C. 133(d)(1) as
12 in effect prior to the date of enactment of Public Law
13 109-59, the first sentence of 23 U.S.C. 133(d)(3)(A), 23
14 U.S.C. 104(b)(5), or 23 U.S.C. 163 as in effect prior to
15 the enactment of Public Law 109-59.

16 FEDERAL RAILROAD ADMINISTRATION
17 EFFICIENCY INCENTIVE GRANTS TO THE NATIONAL
18 RAILROAD PASSENGER CORPORATION
19 (RESCISSION)

20 Of the unobligated balances of amounts made avail-
21 able under this heading in Public Law 109-115,
22 \$8,300,000 are rescinded: *Provided*, That section 135 of
23 title I of division A of Public Law 109-115 is repealed.

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CHAPTER 8

GOVERNMENT-WIDE RESCISSIONS

SEC. 3801. (a) ACROSS-THE-BOARD RESCISSIONS.—

There is hereby rescinded an amount equal to 1 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2006 for any discretionary account of this Act and in any other fiscal year 2006 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2006 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2006 for any program subject to limitation contained in any fiscal year 2006 appropriation Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the rel-

1 evant fiscal year covering such account or item, or
2 for accounts and items not included in appropriation
3 Acts, as delineated in the most recently submitted
4 President's budget).

5 (c) EXCEPTIONS.—This section shall not apply—

6 (1) to discretionary budget authority that has
7 been designated pursuant to section 402 of H. Con.
8 Res. 95 (109th Congress), the concurrent resolution
9 on the budget for fiscal year 2006; or

10 (2) to discretionary authority appropriated or
11 otherwise made available to the Department of Vet-
12 erans Affairs.

13 (d) OMB REPORT.—Within 30 days after the date
14 of the enactment of this section the Director of the Office
15 of Management and Budget shall submit to the Commit-
16 tees on Appropriations of the House of Representatives
17 and the Senate a report specifying the account and
18 amount of each rescission made pursuant to this section.

IV

Hurricane
Education
Recovery
Act

1 **TITLE ~~IV~~—~~HURRICANE~~**
2 **~~REGULATORY RELIEF~~**

3 **Subtitle A—Elementary and Sec-**
4 **ondary Education Hurricane**
5 **Relief**

Insert
Pages 1-39A

6 ~~SEC. 101. [TO BE SUPPLIED].~~

7 **Subtitle B—Higher Education**
8 **Hurricane Relief**

9 **SEC. 201. SHORT TITLE.**

10 This [subtitle] may be cited as the "Higher Edu-
11 cation Hurricane Relief Act of 2005".

12 **SEC. 202. GENERAL WAIVERS AND MODIFICATIONS.**

13 (a) **AUTHORITY.**—Notwithstanding any other provi-
14 sion of law, unless enacted with specific reference to this
15 section, the Secretary is authorized to waive or modify any
16 statutory or regulatory provision applicable to the student
17 financial assistance programs under title IV of the Higher
18 Education Act of 1965 (20 U.S.C. 1070 et seq.), or any
19 student or institutional eligibility provisions in the Higher
20 Education Act of 1965, as the Secretary deems necessary
21 in connection with a Gulf hurricane disaster to ensure
22 that—



1A

~~AMENDMENT NO.~~ _____ ~~Calendar No.~~ _____

Purpose: To provide elementary and secondary education assistance to students and schools impacted by Hurricane Katrina and Hurricane Rita.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

(no.) _____
(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

~~AMENDMENT~~ intended to be proposed by _____

Viz:

1 At the appropriate place, insert the following:

2 **Subtitle D—Hurricane Relief**

3 **SEC. 7951. FINDINGS; DEFINITIONS.**

4 (a) FINDINGS.—Congress finds the following:

- 5 (1) Hurricane Katrina and Hurricane Rita have
- 6 had a devastating and unprecedented impact on stu-
- 7 dents who attended schools in the disaster areas.

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1 (2) Due to the devastating effects of Hurricane
2 Katrina and Hurricane Rita, a significant number of
3 students have enrolled in schools outside of the area
4 in which they resided, including a significant number
5 of students who enrolled in non-public schools be-
6 cause their parents chose to enroll them in such
7 schools.

8 (3) 372,000 students were displaced by Hurri-
9 cane Katrina. Approximately 700 schools have been
10 damaged or destroyed. Nine States each have more
11 than 1,000 of such displaced students enrolled in
12 their schools. In Texas alone, over 45,000 displaced
13 students have enrolled in schools.

14 (4) In response to these extraordinary condi-
15 tions, this subtitle creates a one-time only emergency
16 grant for the 2005-2006 school year tailored to the
17 needs and particular circumstances of students dis-
18 placed by Hurricane Katrina and Hurricane Rita.

19 (5) The level and type of assistance provided
20 under this subtitle, both for students attending pub-
21 lic schools and students attending non-public
22 schools, is made available solely because of the un-
23 precedented nature of the crisis, the massive disloca-
24 tion of students, and the short duration of the serv-
25 ices or assistance.

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1 (b) DEFINITIONS.—Unless otherwise specified in this
2 subtitle, the terms used in this subtitle have the meanings
3 given the terms in section 9101 of the Elementary and
4 Secondary Education Act of 1965 (20 U.S.C. 7801).

102

5 **SEC. 7952. IMMEDIATE AID TO RESTART SCHOOL OPER-**
6 **ATIONS.**

7 (a) PURPOSE.—It is the purpose of this section—

8 (1) to provide immediate services or assistance
9 to local educational agencies and non-public schools
10 in Louisiana, Mississippi, Alabama, and Texas that
11 serve an area in which a major disaster has been de-
12 clared in accordance with section 401 of the Robert
13 T. Stafford Disaster Relief and Emergency Assist-
14 ance Act (42 U.S.C. 5170), related to Hurricane
15 Katrina or Hurricane Rita; and

16 (2) to assist school administrators and per-
17 sonnel of such agencies or non-public schools with
18 expenses related to the restart of operations in, the
19 re-opening of, and the re-enrollment of students in,
20 elementary schools and secondary schools in such
21 areas.

22 (b) PAYMENTS AUTHORIZED.—From amounts appro-
23 priated to carry out this subtitle, the Secretary of Edu-
24 cation is authorized to make payments, on such basis as
25 the Secretary determines appropriate, taking into consid-

~~CONFIDENTIAL~~ ~~SECRET~~

1 eration the number of students who were enrolled, during
2 the 2004–2005 school year, in elementary schools and sec-
3 ondary schools that were closed on September 12, 2005,
4 as a result of Hurricane Katrina or on October 7, 2005,
5 as a result of Hurricane Rita, to State educational agen-
6 cies in Louisiana, Mississippi, Alabama, and Texas to en-
7 able such agencies to provide services or assistance to local
8 educational agencies or non-public schools serving an area
9 in which a major disaster has been declared in accordance
10 with section 401 of the Robert T. Stafford Disaster Relief
11 and Emergency Assistance Act (42 U.S.C. 5170), related
12 to Hurricane Katrina or Hurricane Rita.

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13 (c) ELIGIBILITY, CONSIDERATION, AND EQUITY.—

14 (1) ELIGIBILITY AND CONSIDERATION.—From
15 the payment provided by the Secretary of Education
16 under subsection (b), the State educational agency
17 shall provide services and assistance to local edu-
18 cational agencies and non-public schools, consistent
19 with the provisions of this section. In determining
20 the amount to be provided for services or assistance
21 under this section, the State educational agency
22 shall consider the following:

23 (A) The number of school-aged children
24 served by the local educational agency or non-
25 public school in the academic year preceding

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1 the academic year for which the services or as-
2 sistance are provided.

3 (B) The severity of the impact of Hurri-
4 cane Katrina or Hurricane Rita on the local
5 educational agency or non-public school and the
6 extent of the needs in each local educational
7 agency or non-public school in Louisiana, Mis-
8 sissippi, Alabama, and Texas that is in an area
9 in which a major disaster has been declared in
10 accordance with section 401 of the Robert T.
11 Stafford Disaster Relief and Emergency Assist-
12 ance Act (42 U.S.C. 5170), related to Hurri-
13 cane Katrina or Hurricane Rita.

14 (2) EQUITY.—Educational services and assist-
15 ance provided for eligible non-public school students
16 under paragraph (1) shall be equitable in compari-
17 son to the educational services and other benefits
18 provided for public school students under this sec-
19 tion, and shall be provided in a timely manner.

20 (d) APPLICATIONS.—Each local educational agency
21 or non-public school desiring services or assistance under
22 this section shall submit an application to the State edu-
23 cational agency at such time, in such manner, and accom-
24 panied by such information as the State educational agen-
25 cy may reasonably require to ensure expedited and timely

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1 provision of services or assistance to the local educational
2 agency or non-public school.

3 (e) USES OF FUNDS.—

4 (1) IN GENERAL.—A local educational agency
5 or non-public school receiving services or assistance
6 from the State educational agency under this section
7 shall use such services or assistance for—

8 (A) recovery of student and personnel
9 data, and other electronic information;

10 (B) replacement of school district informa-
11 tion systems, including hardware and software;

12 (C) financial operations;

13 (D) reasonable transportation costs;

14 (E) rental of mobile educational units and
15 leasing of neutral sites or spaces;

16 (F) initial replacement of instructional ma-
17 terials and equipment, including textbooks;

18 (G) redeveloping instructional plans, in-
19 cluding curriculum development;

20 (H) initiating and maintaining education
21 and support services; and

22 (I) such other activities related to the pur-
23 pose of this section that are approved by the
24 Secretary.

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1 (2) USE WITH OTHER AVAILABLE FUNDS.—A
2 local educational agency or non-public school receiv-
3 ing services or assistance under this section may use
4 such services or assistance in coordination with other
5 Federal, State, or local funds available for the activi-
6 ties described in paragraph (1).

7 (3) SPECIAL RULES.—

8 (A) PROHIBITION.—Services or assistance
9 provided under this section shall not be used for
10 construction or major renovation of schools.

11 (B) SECULAR, NEUTRAL, AND NONIDEO-
12 LOGICAL SERVICES OR ASSISTANCE.—Services
13 or assistance provided under this section, in-
14 cluding equipment and materials, shall be sec-
15 ular, neutral, and nonideological.

16 (f) SUPPLEMENT NOT SUPPLANT.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), services or assistance made available
19 under this section shall be used to supplement, not
20 supplant, any funds made available through the Fed-
21 eral Emergency Management Agency or through a
22 State.

23 (2) EXCEPTION.—Paragraph (1) shall not pro-
24 hibit the provision of Federal assistance under this
25 section to an eligible State educational agency, local

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1 educational agency, or non-public school that is or
2 may be entitled to receive, from another source, ben-
3 efits for the same purposes as under this section
4 if—

5 (A) such State educational agency, local
6 educational agency, or school has not received
7 such other benefits by the time of application
8 for Federal assistance under this section; and

9 (B) such State educational agency, local
10 educational agency, or school agrees to repay all
11 duplicative Federal assistance received to carry
12 out the purposes of this section.

13 (g) DEFINITION OF NON-PUBLIC SCHOOL.—The
14 term “non-public school” means a non-public elementary
15 school or secondary school that—

16 (1) is accredited or licensed or otherwise oper-
17 ates in accordance with State law; and

18 (2) was in existence prior to August 22, 2005.

19 (h) ASSISTANCE TO NON-PUBLIC SCHOOLS.—

20 (1) FUNDS AVAILABILITY.—From the payment
21 provided by the Secretary of Education under sub-
22 section (b) to a State educational agency, the State
23 educational agency shall reserve an amount of funds,
24 to be made available to non-public schools in the
25 State, that is not less than an amount that bears the

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1 same relation to the payment as the number of non-
2 public elementary schools and secondary schools in
3 the State bears to the total number of non-public
4 and public elementary schools and secondary schools
5 in the State. The number of such schools shall be
6 determined by the National Center for Education
7 Statistics Common Core of Data for the 2003-2004
8 school year. Such funds shall be used for the provi-
9 sion of services or assistance at non-public schools,
10 except as provided in paragraph (2).

11 (2) SPECIAL RULE.—If funds made available
12 under paragraph (1) remain unobligated 120 days
13 after the date of enactment of this Act, such funds
14 may be used to provide services or assistance under
15 this section to local educational agencies or non-pub-
16 lic schools.

17 (3) PUBLIC CONTROL OF FUNDS.—The control
18 of funds for the services and assistance provided to
19 a non-public school under paragraph (1), and title to
20 materials, equipment, and property purchased with
21 such funds, shall be in a public agency, and a public
22 agency shall administer such funds, materials, equip-
23 ment, and property and shall provide such services
24 (or may contract for the provision of such services
25 with a public or private entity).

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1 **SEC. 7053. HOLD HARMLESS FOR LOCAL EDUCATIONAL**
2 **AGENCIES SERVING MAJOR DISASTER AREAS.**

3 In the case of a local educational agency that serves
4 an area in which the President has declared that a major
5 disaster exists in accordance with section 401 of the Rob-
6 ert T. Stafford Disaster Relief and Emergency Assistance
7 Act (42 U.S.C. 5170), related to Hurricane Katrina or
8 Hurricane Rita, the amount made available for such local
9 educational agency under each of sections 1124, 1124A,
10 1125, and 1125A of the Elementary and Secondary Edu-
11 cation Act of 1965 (20 U.S.C. 6333, 6334, 6335, and
12 6337) for fiscal year 2006 shall be not less than the
13 amount made available for such local educational agency
14 under each of such sections for fiscal year 2005.

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15 **SEC. 7054. TEACHER AND PARAPROFESSIONAL RECI-**
16 **PROCITY; DELAY.**

17 (a) TEACHER AND PARAPROFESSIONAL RECI-
18 PROCITY.—

19 (1) TEACHERS.—

20 (A) AFFECTED TEACHER.—In this sub-
21 section, the term “affected teacher” means a
22 teacher who is displaced due to Hurricane
23 Katrina or Hurricane Rita and relocates to a
24 State that is different from the State in which
25 such teacher resided on August 22, 2005.

26 (B) RECIPROCITY.—

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(i) TEACHERS.—A local educational agency may consider an affected teacher hired by such agency who is not highly qualified in a core academic subject in the State in which such agency is located to be highly qualified in the same core academic subject or area, for purposes of section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), for the 2005–2006 school year, if such teacher was highly qualified, consistent with section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(ii) SPECIAL EDUCATION TEACHERS.—A local educational agency may consider an affected special education teacher hired by such agency who is not highly qualified in the State in which such agency is located to be highly qualified, for purposes of section 612(a)(14) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)), for the 2005–2006

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1 school year, if such teacher was highly
2 qualified, consistent with section 602(10)
3 of the Individuals with Disabilities Edu-
4 cation Act (20 U.S.C. 1401(10)), on or be-
5 fore August 22, 2005, in the State in
6 which such teacher resided on August 22,
7 2005.

8 (2) PARAPROFESSIONAL.—

9 (A) AFFECTED PARAPROFESSIONAL.—In
10 this subsection, the term “affected paraprofes-
11 sional” means a paraprofessional who is dis-
12 placed due to Hurricane Katrina or Hurricane
13 Rita and relocates to a State that is different
14 from the State in which such paraprofessional
15 resided on August 22, 2005.

16 (B) RECIPROCITY.—A local educational
17 agency may consider an affected paraprofes-
18 sional hired by such agency who does not sat-
19 isfy the requirements of section 1119(c) of the
20 Elementary and Secondary Education Act of
21 1965 (20 U.S.C. 6319(c)) in the State in which
22 such agency is located to satisfy such require-
23 ments, for purposes of such section, for the
24 2005–2006 school year, if such paraprofessional
25 satisfied such requirements on or before August

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1 22, 2005, in the State in which such para-
2 professional resided on August 22, 2005.

3 (b) DELAY.—The Secretary of Education may delay,
4 for a period not to exceed 1 year, applicability of the re-
5 quirements of paragraphs (2) and (3) of section 1119(a)
6 of the Elementary and Secondary Education Act of 1965
7 (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C)
8 of the Individuals with Disabilities Education Act (20
9 U.S.C. 1412(a)(14)(C)) with respect to the States of Ala-
10 bama, Louisiana, Texas, and Mississippi (and local edu-
11 cational agencies within the jurisdiction of such States),
12 if any such State or local educational agency demonstrates
13 that a failure to comply with such requirements is due
14 to exceptional or uncontrollable circumstances, such as a
15 natural disaster or a precipitous and unforeseen decline
16 in the financial resources of local educational agencies
17 within the State.

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18 ~~SEC. 7955.~~ REGULATORY AND FINANCIAL RELIEF.

19 (a) WAIVER AUTHORITY.—Subject to subsections (b)
20 and (c), in providing any grant or other assistance, di-
21 rectly or indirectly, to an entity in an affected State in
22 which a major disaster has been declared in accordance
23 with section 401 of the Robert T. Stafford Disaster Relief
24 and Emergency Assistance Act (42 U.S.C. 5170), related
25 to Hurricane Katrina or Hurricane Rita, the Secretary of

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1 Education may, as applicable, waive or modify, in order
2 to ease fiscal burdens, any requirement relating to the fol-
3 lowing:

4 (1) Maintenance of effort.

5 (2) The use of Federal funds to supplement,
6 not supplant, non-Federal funds.

7 (3) Any non-Federal share or capital contribu-
8 tion required to match Federal funds provided under
9 programs administered by the Secretary of Edu-
10 cation.

11 (b) DURATION.—A waiver under this section shall be
12 for the fiscal year 2006.

13 (c) LIMITATIONS.—

14 (1) RELATION TO IDEA.—Nothing in this sec-
15 tion shall be construed to waive or modify any provi-
16 sion of the Individuals with Disabilities Education
17 Act (20 U.S.C. 1400 et seq.).

18 (2) MAINTENANCE OF EFFORT.—If the Sec-
19 retary grants a waiver or modification under this
20 section waiving or modifying a requirement relating
21 to maintenance of effort for fiscal year 2006, the
22 level of effort required for fiscal year 2007 shall not
23 be reduced because of the waiver or modification.

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1 SEC. 7956. ASSISTANCE FOR HOMELESS YOUTH.

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2 (a) IN GENERAL.—The Secretary of Education shall
3 provide assistance to local educational agencies serving
4 homeless children and youths displaced by Hurricane
5 Katrina or Hurricane Rita, consistent with section 723 of
6 the McKinney-Vento Homeless Assistance Act (42 U.S.C.
7 11433), including identification, enrollment assistance, as-
8 sessment and school placement assistance, transportation,
9 coordination of school services, supplies, referrals for
10 health, mental health, and other needs.

11 (b) EXCEPTION AND DISTRIBUTION OF FUNDS.—

12 (1) EXCEPTION.—For purposes of providing as-
13 sistance under subsection (a), subsections (c) and
14 (e)(1) of section 722 and subsections (b) and (c) of
15 section 723 of the McKinney-Vento Homeless Assist-
16 ance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b)
17 and (c)) shall not apply.

18 (2) DISBURSEMENT.—The Secretary of Edu-
19 cation shall disburse funding provided under sub-
20 section (a) to State educational agencies based on
21 demonstrated need, as determined by the Secretary,
22 and such State educational agencies shall distribute
23 funds, that are appropriated under section ~~7959~~ and
24 available to carry out this section, to local edu-
25 cational agencies based on demonstrated need, for
26 the purposes of carrying out section 723 of the

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1 McKinney-Vento Homeless Assistance Act (42
2 U.S.C. 11433).

3 **SEC. 7957. TEMPORARY EMERGENCY IMPACT AID FOR DIS-**
4 **PLACED STUDENTS.**

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5 (a) TEMPORARY EMERGENCY IMPACT AID AUTHOR-
6 IZED.—

7 (1) AID TO STATE EDUCATIONAL AGENCIES.—

to carry out

8 From amounts appropriated under this subtitle, the
9 Secretary of Education shall provide emergency im-
10 pact aid to State educational agencies to enable the
11 State educational agencies to make emergency im-
12 pact aid payments to eligible local educational agen-
13 cies and eligible BIA-funded schools to enable—

14 (A) such eligible local educational agencies
15 and schools to provide for the instruction of
16 students served by such agencies and schools;
17 and

18 (B) such eligible local educational agencies
19 to make immediate impact aid payments to ac-
20 counts established on behalf of displaced stu-
21 dents (referred to in this section as “accounts”)
22 who are attending eligible non-public schools lo-
23 cated in the areas served by the eligible local
24 educational agencies.

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1 (2) AID TO LOCAL EDUCATIONAL AGENCIES
2 AND BIA-FUNDED SCHOOLS.—A State educational
3 agency shall make emergency impact aid payments
4 to eligible local educational agencies and eligible
5 BIA-funded schools in accordance with subsection
6 (d).

7 (3) STATE EDUCATIONAL AGENCIES IN CER-
8 TAIN STATES.—In the case of the States of Lou-
9 isiana and Mississippi, the State educational agency
10 shall carry out the activities of eligible local edu-
11 cational agencies that are unable to carry out this
12 section, including eligible local educational agencies
13 in such States for which the State exercises the au-
14 thorities normally exercised by such local educational
15 agencies.

16 (4) NOTICE OF FUNDS AVAILABILITY.—Not
17 later than 14 calendar days after the date of enact-
18 ment of this Act, the Secretary of Education shall
19 publish in the Federal Register a notice of the avail-
20 ability of funds under this section.

21 (b) DEFINITIONS.—In this section:

22 (1) DISPLACED STUDENT.—The term “dis-
23 placed student” means a student who enrolled in an
24 elementary school or secondary school (other than
25 the school that the student was enrolled in, or was

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1 eligible to be enrolled in, on August 22, 2005) be-
2 cause such student resides or resided on August 22,
3 2005, in an area for which a major disaster has
4 been declared in accordance with section 401 of the
5 Robert T. Stafford Disaster Relief and Emergency
6 Assistance Act (42 U.S.C. 5170), related to Hurri-
7 cane Katrina or Hurricane Rita.

8 (2) ELIGIBLE LOCAL EDUCATIONAL AGEN-
9 CIES.—The term “eligible local educational agency”
10 means a local educational agency that serves—

11 (A) an elementary school or secondary
12 school (including a charter school) in which
13 there is enrolled a displaced student; or

14 (B) an area in which there is located an el-
15 ible non-public school.

16 (3) ELIGIBLE NON-PUBLIC SCHOOL.—The term
17 “eligible non-public school” means a non-public ele-
18 mentary school or secondary school that—

19 (A) is accredited or licensed or otherwise
20 operates in accordance with State law;

21 (B) was in existence on August 22, 2005;
22 and

23 (C) serves a displaced student on behalf of
24 whom an application for an account has been
25 made pursuant to subsection (c)(2)(A)(ii).

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1 (4) ELIGIBLE BIA-FUNDED SCHOOL.—In this
2 section, the term “eligible BIA-funded school”
3 means a school funded by the Bureau of Indian Af-
4 fairs in which there is enrolled a displaced student.

5 (c) APPLICATION.—

6 (1) STATE EDUCATIONAL AGENCY.—A State
7 educational agency that desires to receive emergency
8 impact aid under this section shall submit an appli-
9 cation to the Secretary of Education, not later than
10 7 calendar days after the date by which an applica-
11 tion under paragraph (2) must be submitted, in such
12 manner, and accompanied by such information as
13 the Secretary of Education may reasonably require,
14 including—

15 (A) information on the total displaced stu-
16 dent child count of the State provided by eligi-
17 ble local educational agencies in the State and
18 eligible BIA-funded schools in the State under
19 paragraph (2);

20 (B) a description of the process for the
21 parent or guardian of a displaced student en-
22 rolled in a non-public school to indicate to the
23 eligible local educational agency serving the
24 area in which such school is located that the
25 student is enrolled in such school;

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1 (C) a description of the procedure to be
2 used by an eligible local educational agency in
3 such State to provide payments to accounts;

4 (D) a description of the process to be used
5 by an eligible local educational agency in such
6 State to obtain—

7 (i) attestations of attendance of eligi-
8 ble displaced students from eligible non-
9 public schools, in order for the local edu-
10 cational agency to provide payments to ac-
11 counts on behalf of eligible displaced stu-
12 dents; and

13 (ii) attestations from eligible non-pub-
14 lic schools that accounts are used only for
15 the purposes described in subsection (e)(1);

16 (E) the criteria, including family income,
17 used to determine the eligibility for and the
18 amount of assistance under this section pro-
19 vided on behalf of a displaced student attending
20 an eligible non-public school; and

21 (F) the student count for displaced stu-
22 dents attending eligible non-public schools.

23 (2) LOCAL EDUCATIONAL AGENCIES AND BIA-
24 FUNDED SCHOOLS.—An eligible local educational
25 agency or eligible BIA-funded school that desires an

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1 emergency impact aid payment under this section
2 shall submit an application to the State educational
3 agency, not later than 14 calendar days after the
4 date of the publication of the notice described in
5 subsection (a)(4), in such manner, and accompanied
6 by such information as the State educational agency
7 may reasonably require, including documentation
8 submitted quarterly for the 2005–2006 school year
9 that indicates the following:

10 (A) In the case of an eligible local edu-
11 cational agency—

12 (i) the number of displaced students
13 enrolled in the elementary schools and sec-
14 ondary schools (including charter schools
15 and including the number of displaced stu-
16 dents who are children with disabilities)
17 served by such agency for such quarter;

18 (ii) the number of displaced students
19 for whom the eligible local educational
20 agency expects to provide payments to ac-
21 counts under subsection (d)(3) (including
22 the number of displaced students who are
23 children with disabilities) for such quarter
24 who meet the following criteria:

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(I) the displaced student enrolled in an eligible non-public school prior to the date of enactment of this Act;

(II) the parent or guardian of the displaced student chose to enroll the student in the eligible non-public school in which the student is enrolled; and

(III) the parent or guardian of the displaced student submitted, in a timely manner that allows the local educational agency to meet the documentation requirements under this paragraph, an application requesting that the agency make a payment to an account on behalf of the student; and

(iii) an assurance that the local educational agency will make payments to accounts within 14 calendar days of receipt of funds provided under this section.

(B) In the case of an eligible BIA-funded school, the number of displaced students, including the number of displaced students who

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1 are children with disabilities, enrolled in such
2 school for such quarter.

3 (3) DETERMINATION OF NUMBER OF DIS-
4 PLACED STUDENTS.—In determining the number of
5 displaced students for a quarter under paragraph
6 (2), an eligible local educational agency or eligible
7 BIA-funded school shall include the number of dis-
8 placed students served—

9 (A) in the case of a determination for the
10 first quarterly installment, during the quarter
11 prior to the date of enactment of this Act; and

12 (B) in the case of a determination for each
13 subsequent quarterly installment, during the
14 quarter immediately preceding the quarter for
15 which the installment is provided.

16 (d) AMOUNT OF EMERGENCY IMPACT AID.—

17 (1) AID TO STATE EDUCATIONAL AGENCIES.—

18 (A) IN GENERAL.—The amount of emer-
19 gency impact aid received by a State edu-
20 cational agency for the 2005–2006 school year
21 shall equal the sum of—

22 (i) the product of the number of dis-
23 placed students (who are not children with
24 disabilities), as determined by the eligible
25 local educational agencies and eligible BIA-

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1 funded schools in the State under sub-
2 section (c)(2), times \$6,000; and

3 (ii) the product of the number of dis-
4 placed students who are children with dis-
5 abilities, as determined by the eligible local
6 educational agencies and eligible BIA-fund-
7 ed schools in the State under subsection
8 (c)(2), times \$7,500.

9 (B) INSUFFICIENT FUNDS.—If the amount
10 available under this section to provide emer-
11 gency impact aid under this subsection is insuf-
12 ficient to pay the full amount that a State edu-
13 cational agency is eligible to receive under this
14 section, the Secretary of Education shall rat-
15 ably reduce the amount of such emergency im-
16 pact aid.

17 (C) RETENTION OF STATE SHARE.—In the
18 case of a State educational agency that has
19 made a payment prior to the date of enactment
20 of this Act to a local educational agency for the
21 purpose of covering additional costs incurred as
22 a result of enrolling a displaced student in a
23 school served by the local educational agency,
24 the State educational agency may retain a por-
25 tion of the payment described in paragraph

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1 (2)(A)(ii) that bears the same relation to the
2 total amount of the payment under such para-
3 graph as the sum of such prior payments bears
4 to the total cost of attendance for all students
5 in that local educational agency for whom the
6 State educational agency made such prior pay-
7 ments, except that a local educational agency
8 shall not adjust the level of funding provided to
9 accounts under this section based on the State's
10 retention of such amount.

11 (2) AID TO ELIGIBLE LOCAL EDUCATIONAL
12 AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

13 (A) QUARTERLY INSTALLMENTS.—

14 (i) IN GENERAL.—A State educational
15 agency shall provide emergency impact aid
16 payments under this section on a quarterly
17 basis for the 2005–2006 school year by
18 such dates as determined by the Secretary
19 of Education. Such quarterly installment
20 payments shall be based on the number of
21 displaced students reported under sub-
22 section (c)(2) and in the amount deter-
23 mined under clause (ii).

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(ii) PAYMENT AMOUNT.—Each quarterly installment payment under clause (i) shall equal 25 percent of the sum of—

(I) the number of displaced students (who are not children with disabilities) reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times \$6,000; and

(II) the number of displaced students who are children with disabilities reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times \$7,500.

(iii) TIMELINE.—The Secretary of Education shall establish a timeline for quarterly reporting on the number of displaced students in order to make the appropriate disbursements in a timely manner.

(iv) INSUFFICIENT FUNDS.—If, for any quarter, the amount available under

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1 this section to make payments under this
2 subsection is insufficient to pay the full
3 amount that an eligible local educational
4 agency or eligible BIA-funded school is eli-
5 gible to receive under this section, the
6 State educational agency shall ratably re-
7 duce the amount of such payments.

8 (B) MAXIMUM PAYMENT TO ACCOUNT.—In
9 providing quarterly payments to an account for
10 the 2005–2006 school year on behalf of a dis-
11 placed student for each quarter that such stu-
12 dent is enrolled in a non-public school in the
13 area served by the agency under paragraph (3),
14 an eligible local educational agency may provide
15 not more than 4 quarterly payments to such ac-
16 count (each of which shall be paid not later
17 than 14 calendar days after the date of receipt
18 of each quarterly installment payment received
19 under subparagraph (A)), and the aggregate
20 amount of such payments shall not exceed the
21 lesser of—

22 (i)(I) in the case of a displaced stu-
23 dent who is not a child with a disability,
24 \$6,000; or

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1 (II) in the case of a displaced student
2 who is a child with a disability, \$7,500; or

3 (ii) the cost of tuition and fees (and
4 transportation expenses, if any) at the
5 non-public school for the 2005-2006 school
6 year.

7 (C) LIMITATION.—A non-public school ac-
8 cessing funds on behalf of a displaced student
9 under this section must waive tuition, or reim-
10 burse tuition paid, in an amount equal to the
11 amount accessed.

12 (3) DISPLACED STUDENTS.—Subject to the
13 succeeding sentence, an eligible local educational
14 agency or eligible BIA-funded school receiving emer-
15 gency impact aid payments under this section shall
16 use the payments to provide services and assistance
17 to elementary schools and secondary schools (includ-
18 ing charter schools) served by such agency, or to
19 such BIA-funded school, that enrolled a displaced
20 student. An eligible local educational agency that re-
21 ceives emergency impact aid payments under this
22 section and that serves an area in which there is lo-
23 cated an eligible non-public school shall, at the re-
24 quest of the parent or guardian of a displaced stu-
25 dent who meets the criteria described in subsection

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1 (c)(2)(A)(ii) and who enrolled in a non-public school
2 in an area served by the agency, use such emergency
3 impact aid payment to provide payment on a quar-
4 terly basis (but not to exceed the total amount speci-
5 fied in subsection (d)(2)(B) for the 2005-2006
6 school year) to an account on behalf of such dis-
7 placed student.

8 (e) USE OF FUNDS.—

9 (1) AUTHORIZED USES.—The authorized uses
10 of funds are the following:

11 (A) Paying the compensation of personnel,
12 including teacher aides, in schools enrolling dis-
13 placed students.

14 (B) Identifying and acquiring curricular
15 material, including the costs of providing addi-
16 tional classroom supplies, and mobile edu-
17 cational units and leasing sites or spaces.

18 (C) Basic instructional services for such
19 students, including tutoring, mentoring, or aca-
20 demic counseling.

21 (D) Reasonable transportation costs.

22 (E) Health and counseling services.

23 (F) Education and support services.

24 (2) VERIFICATION OF ENROLLMENT FOR NON-
25 PUBLIC SCHOOLS.—Before providing a quarterly

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1 payment to an account, the eligible local educational
2 agency shall verify with the parent or guardian of a
3 displaced student that such displaced student is, or
4 was, enrolled in the non-public school for such quar-
5 ter.

6 (3) PROHIBITION.—Funds received under this
7 section shall not be used for construction or major
8 renovation of schools.

9 (4) PROVISION OF SPECIAL EDUCATION AND
10 RELATED SERVICES.—

11 (A) IN GENERAL.—In the case of a dis-
12 placed student who is a child with a disability,
13 any payment made on behalf of such student to
14 an eligible local educational agency or any pay-
15 ment available in an account for such student,
16 shall be used to pay for special education and
17 related services consistent with the Individuals
18 with Disabilities Education Act (20 U.S.C.
19 1400 et seq.).

20 (B) SPECIAL RULE.—

21 (i) RETENTION.—Notwithstanding
22 any other provision of this section, if an el-
23 igible local educational agency provides
24 services to a displaced student attending
25 an eligible non-public school under section

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612(a)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)), the eligible local educational agency may retain a portion of the assistance received under this section on behalf of such student to pay for such services.

(ii) DETERMINATION OF PORTION.—

(I) GUIDELINES.—Each State shall issue guidelines, not later than 14 calendar days after the date of the publication of the notice described in subsection (a)(4), that specify the portion of the assistance that an eligible local educational agency in the State may retain under this subparagraph. Each State shall apply such guidelines in a consistent manner throughout the State.

(II) DETERMINATION OF PORTION.—The portion specified in the guidelines shall be based on customary costs of providing services under such section 612(a)(10) for the local educational agency.

(C) DEFINITIONS.—In this paragraph:

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(i) SPECIAL EDUCATION; RELATED SERVICES.—The terms “special education” and “related services” have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(ii) INDIVIDUALIZED EDUCATION PROGRAM.—The term “individualized education program” has the meaning given the term in section 614(d)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(2)).

(f) RETURN OF AID.—

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local educational agency or eligible BIA-funded school that receives an emergency impact aid payment under this section shall return to the State educational agency any payment provided to the eligible local educational agency or school under this section that the eligible local educational agency or school has not obligated by the end of the 2005–2006 school year in accordance with this section.

(2) STATE EDUCATIONAL AGENCY.—A State educational agency that receives emergency impact

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1 aid under this section, shall return to the Secretary
2 of Education—

3 (A) any aid provided to the agency under
4 this section that the agency has not obligated
5 by the end of the 2005–2006 school year in ac-
6 cordance with this section; and

7 (B) any payment funds returned to the
8 State educational agency under paragraph (1).

9 (g) LIMITATION ON USE OF AID AND PAYMENTS.—
10 Aid and payments provided under this section shall only
11 be used for expenses incurred during the 2005–2006
12 school year.

13 (h) ADMINISTRATIVE EXPENSES.—A State edu-
14 cational agency that receives emergency impact aid under
15 this section may use not more than 1 percent of such aid
16 for administrative expenses. An eligible local educational
17 agency or eligible BIA-funded school that receives emer-
18 gency impact aid payments under this section may use not
19 more than 2 percent of such payments for administrative
20 expenses.

21 (i) SPECIAL FUNDING RULE.—In calculating funding
22 under section 8003 of the Elementary and Secondary
23 Education Act of 1965 (20 U.S.C. 7703) for an eligible
24 local educational agency that receives an emergency im-
25 pact aid payment under this section, the Secretary of Edu-

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1 cation shall not count displaced students served by such
2 agency for whom an emergency impact aid payment is re-
3 ceived under this section, nor shall such students be count-
4 ed for the purpose of calculating the total number of chil-
5 dren in average daily attendance at the schools served by
6 such agency as provided in section 8003(b)(3)(B)(i) of
7 such Act (20 U.S.C. 7703(b)(3)(B)(i)).

8 (j) NOTICE.—Each State receiving emergency impact
9 aid under this section shall provide, to the parent or
10 guardian of each displaced student for whom a payment
11 is made under this section to an account who resides in
12 such State, notification that—

13 (1) such parent or guardian has the option of
14 enrolling such student in a public school or a non-
15 public school; and

16 (2) the temporary emergency impact aid for
17 displaced students provided under this section is
18 temporary and is only available for the 2005–2006
19 school year.

20 (k) BYPASS.—For a State in which State law pro-
21 hibits the State from using Federal funds to directly pro-
22 vide services on behalf of students attending non-public
23 schools and provides that another entity shall provide such
24 services, the Secretary of Education shall make such ar-
25 rangements with that entity.

35A

1 (l) REDIRECTION OF FUNDS.—

2 (1) IN GENERAL.—If a State educational agen-
3 cy or eligible local educational agency is unable to
4 carry out this section, the Secretary of Education
5 shall make such arrangements with the State as the
6 Secretary determines appropriate to carry out this
7 section on behalf of displaced students attending an
8 eligible non-public school in the area served by such
9 agency.

10 (2) SPECIAL RULE.—If an eligible local edu-
11 cational agency does not make a payment to an ac-
12 count within 14 calendar days of receipt of funds
13 provided under this section, then—

14 (A) the eligible local educational agency
15 shall return the funds received that quarter for
16 such account to the State educational agency;
17 and

18 (B) the State educational agency shall en-
19 sure that the proper payment to such account
20 for such quarter is made not later than 14 cal-
21 endar days after the date of the receipt of funds
22 under subparagraph (A), before any further
23 funds for such account are distributed to the el-
24 igible local educational agency.

25 (m) NONDISCRIMINATION.—

36A

1 (1) PROHIBITION.—

2 (A) IN GENERAL.—A school that enrolls a
3 displaced student under this section shall not
4 discriminate against students on the basis of
5 race, color, national origin, religion, disability,
6 or sex.

7 (B) APPLICABILITY.—The prohibition of
8 religious discrimination in subparagraph (A)
9 shall not apply with regard to enrollment for a
10 non-public school that is controlled by a reli-
11 gious organization or organized and operated on
12 the basis of religious tenets, except that the
13 prohibition of religious discrimination shall
14 apply with respect to the enrollment of dis-
15 placed students assisted under this section.

16 (2) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVI-
17 TIES.—

18 (A) IN GENERAL.—To the extent con-
19 sistent with title IX of the Education Amend-
20 ments of 1972 (20 U.S.C. 1681 et seq.), the
21 prohibition of sex discrimination in paragraph
22 (1)(A) shall not apply to a non-public school
23 that is controlled by a religious organization or
24 organized and operated on the basis of religious
25 tenets if the application of paragraph (1)(A)

37A

1 would not be consistent with the religious tenets
2 of such organization.

3 (B) SINGLE SEX SCHOOLS, CLASSES, OR
4 ACTIVITIES.—Notwithstanding paragraph
5 (1)(A) and to the extent consistent with title IX
6 of the Education Amendments of 1972, a par-
7 ent or guardian may choose and a non-public
8 school may offer a single sex school, class, or
9 activity.

10 (3) GENERAL PROVISION.—Nothing in this sub-
11 title may be construed to alter or modify the provi-
12 sions of the Individuals with Disabilities Education
13 Act (20 U.S.C. 1400 et seq.), title VI of the Civil
14 Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
15 IX of the Education Amendments of 1972 (20
16 U.S.C. 1681 et seq.), and the Rehabilitation Act of
17 1973 (29 U.S.C. 701 et seq.).

18 (4) OPT-OUT.—A parent or guardian of a dis-
19 placed student on behalf of whom a payment to an
20 account is made under this section shall have the op-
21 tion to have such parent or guardian's displaced
22 child opt out of religious worship or religious classes
23 offered by the non-public school in which such stu-
24 dent is enrolled and on behalf of whom a payment
25 to an account is made under this section.

38A

1 (5) RULE OF CONSTRUCTION.—The amount of
 2 any payment (or other form of support provided on
 3 behalf of a displaced student) under this section
 4 shall not be treated as income of a parent or guard-
 5 ian of the student for purposes of Federal tax laws
 6 or for determining eligibility for any other Federal
 7 program.

8 (m) TREATMENT OF STATE AID.—A State shall not
 9 take into consideration emergency impact aid payments
 10 received under this section by a local educational agency
 11 in the State in determining the eligibility of such local edu-
 12 cational agency for State aid, or the amount of State aid,
 13 with respect to free public education of children.

108) 14 **SEC. 7958. SEVERABILITY.**

15 If any provision of this subtitle, an amendment made
 16 by this subtitle, or the application of such provision or
 17 amendment to any person or circumstance is held to be
 18 unconstitutional, the remainder of this subtitle, the
 19 amendments made by this subtitle, and the application of
 20 the provisions of such to any person or circumstance shall
 21 not be affected thereby.

109) 22 **SEC. 7959. AUTHORIZATION OF FUNDS.**

23 There are authorized to be appropriated—

24 ~~(1) \$450,000,000 to carry out section 7952,~~

25 ~~(2) \$10,000,000 to carry out section 7956; and~~

(Such sums as
 May be
 necessary
 102, 106, and
 107.)

39A

1 ~~(3) \$1,200,000,000 to carry out section 7957.~~

110)

2 **SEC. 7950. SUNSET PROVISION.**

3 Except as provided in section ~~7955~~, the provisions of
4 this subtitle shall be effective for the period beginning on
5 the date of enactment of this Act and ending on August
6 1, 2006.

105

2

1 (1) administrative requirements placed on af-
2 fected students, affected individuals, affected institu-
3 tions, lenders, guaranty agencies, and grantees are
4 minimized to the extent possible without impairing
5 the integrity of the higher education programs under
6 the Higher Education Act of 1965, to ease the bur-
7 den on such participants; or

8 (2) institutions of higher education, lenders,
9 guaranty agencies, and other entities participating in
10 the student financial assistance programs under title
11 IV of the Higher Education Act of 1965, that serve
12 an area affected by a Gulf hurricane disaster, may
13 be granted temporary relief from requirements that
14 are rendered infeasible or unreasonable due to the
15 effects of a Gulf hurricane disaster, including due
16 diligence requirements and reporting deadlines.

17 (b) AUTHORITY TO EXTEND OR WAIVE REPORTING
18 REQUIREMENTS UNDER SECTION 131(a).—The Secretary
19 is authorized to extend reporting deadlines or waive re-
20 porting requirements under section 131(a) of the Higher
21 Education Act of 1965 (20 U.S.C. 1015(a)) for an af-
22 fected institution.

23 (c) CONSTRUCTION.—Nothing in this [subtitle] shall
24 be construed—

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1 (1) to allow the Secretary to waive or modify
 2 any applicable statutory or regulatory requirements
 3 prohibiting discrimination in a program or activity,
 4 or in employment or contracting, under existing law
 5 (in existence on the date of the Secretary's action);
 6 or
 7 (2) to authorize any refunding of any repay-
 8 ment of a loan.

9 **SEC. 203. WAIVER AUTHORITY AND MODIFICATIONS CON-**
 10 **~~CERNING RETURN OR REPAYMENT OF~~**
 11 **~~FUNDS.~~**

12 (a) **WAIVER OF INSTITUTIONAL REPAYMENT.**—Not-
 13 withstanding any other provision of law, including require-
 14 ments related to cash management, an affected institution
 15 shall not be required to return any funds received by the
 16 affected institution for, or on behalf of, its students under
 17 subparts 1 and 3 of part A and parts B, C, D, and E
 18 of title IV of the Higher Education Act of 1965 (20 U.S.C.
 19 1070, 1070b et seq., 1071 et seq., 1087a et seq., 1087aa
 20 et seq., 42 U.S.C. 2751 et seq.) during the 2005–2006
 21 academic year.

22 (b) **WAIVER OF STUDENT RETURN OF ASSIST-**
 23 **ANCE.**—Notwithstanding any other provision of law, an
 24 affected student who, as of the date of enactment of this
 25 Act, received assistance under subpart 1 or 3 of part A

1 or parts B, C, D, or E of title IV of the Higher Education
2 Act of 1965 for attendance at an affected institution dur-
3 ing the 2005-2006 academic year, shall not be required
4 to return such assistance

5 (c) DISCHARGE OR CANCELLATION OF LOANS.—The
6 Secretary shall—

7 (1) discharge all loan amounts under parts B
8 and D of title IV of the Higher Education Act of
9 1965 (20 U.S.C. 1071 et seq., 1087a et seq.) dis-
10 bursed to, or on behalf of, an affected student for
11 attendance at an affected institution during the
12 2005-2006 academic year;

13 (2) reimburse lenders for the purpose of dis-
14 charging any loan amounts disbursed to, or on be-
15 half of, a student under part B of title IV of the
16 Higher Education Act of 1965 (20 U.S.C. 1071 et
17 seq.), for attendance at an affected institution dur-
18 ing the 2005-2006 academic year and

19 (3) cancel any loan under part E of title IV of
20 the Higher Education Act of 1965 (20 U.S.C.
21 1087aa et seq.) disbursed to a student for attend-
22 ance at an affected institution during the 2005-
23 2006 academic year.

24 (d) NO AFFECT ON GRANT AND LOAN LIMITS.—Not-
25 withstanding any provision of title IV of the Higher Edu-



1 cation Act of 1965 or any regulation issued thereunder,
2 no grant or loan funds received by an affected student
3 under title IV of the Higher Education Act of 1965 for
4 a cancelled enrollment period shall be counted against
5 such affected student's annual or aggregate grant or loan
6 limits for the receipt of grants or loans under that title.

7 (e) LIMITATION ON CONSOLIDATION LOANS.—A loan
8 amount for a loan made under section 428C of the Higher
9 Education Act of 1965 (20 U.S.C. 1078-3) or a Federal
10 Direct Consolidation Loan may be eligible for discharge
11 under this section only to the extent that such loan
12 amount was used to repay a loan to an affected student
13 for a cancelled enrollment period.

14 **SEC. 204. STUDENT LOAN REPAYMENT STATUS, FORBEAR-**
15 **ANCE.**

16 (a) LOANS IN REPAYMENT STATUS.—An affected in-
17 dividual who is a borrower of a qualified student loan or
18 a qualified parent loan shall be granted a deferment, not
19 in excess of 6 months, during which periodic installments
20 of principal need not be paid, and interest—

21 (1) shall accrue and be paid by the Secretary,
22 in the case of a loan made under section 428, 428B,
23 428C, or 428H of the Higher Education Act of
24 1965 (20 U.S.C. 1078, 1078-2, 1078-3, 1078-8);



1 (2) in the case of a loan made under part E of
2 title IV of the Higher Education Act of 1965 (20
3 U.S.C. 1087aa et seq.)—

4 (A) if the loan was made by an affected in-
5 stitution, shall accrue and be paid by the Sec-
6 retary to the Perkins loan fund held by such af-
7 fected institution; or

8 (B) if the loan was made by any other in-
9 stitution of higher education, shall not accrue;
10 and

11 (3) shall not accrue in the case of a Federal Di-
12 rect Loan made under part D of such title (20
13 U.S.C. 1087a et seq.)

14 (b) IN-SCHOOL AND GRACE PERIOD STATUS.—With
15 respect to a loan made, insured, or guaranteed under part
16 B, D, or E of title IV of the Higher Education Act of
17 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et
18 seq.)—

19 (1) an affected student who does not enroll in
20 another institution of higher education during aca-
21 demic year 2005–2006 shall be retained in in-school
22 status during the period beginning on August 29,
23 2005, and ending on June 30, 2006; and

24 (2) an affected individual in a grace period as
25 of August 29, 2005, shall be retained in such status,



1 without documentation or action by the borrower,
2 until June 30, 2006.

3 (c) ~~FORBEARANCE~~ — ~~Notwithstanding the provisions~~
4 of part B, D, or E of title IV of the Higher Education
5 Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,
6 1087aa et seq.), a lender, the Secretary, or an institution
7 of higher education is authorized to provide not more than
8 6 months of forbearance, ending not later than September
9 30, 2006, to an affected individual without documentation.

10 **SEC. 205. TEACHER LOAN RELIEF.**

11 (a) ~~WAIVER AUTHORITY~~ — The Secretary may waive
12 the requirement of sections 428J(b)(1) and 460(b)(1)(A)
13 of the Higher Education Act of 1965 (20 U.S.C. 1078-
14 7(b)(1), 1087j(b)(1)(A)) that the 5 years of qualifying
15 service be consecutive academic years for any teacher
16 whose employment was interrupted if —

17 (1) the teacher was employed in qualifying serv-
18 ice, at the time of a Gulf hurricane disaster, in a
19 school located in an area affected by a Gulf hurri-
20 cane disaster; and

21 (2) the teacher resumes qualifying service not
22 later than the beginning of academic year 2006-
23 2007 in that school or any other school in which em-
24 ployment is qualifying service under such section.

1 ~~(b) EXERCISE OF WAIVED BENEFIT. A waiver~~
 2 ~~issued under subsection (a) shall permit a teacher to ob-~~
 3 ~~tain the benefits of such waiver upon the completion of~~
 4 ~~the remainder of the qualifying service.~~

203)

5 **SEC. 206. MODIFICATION OF PART A OF TITLE II GRANTS**
 6 **AUTHORIZED.**

7 The Secretary is authorized to approve modifications
 8 to the requirements for Teacher Quality Enhancement
 9 Grants for States and Partnerships under part A of title
 10 II of the Higher Education Act of 1965 (20 U.S.C. 1021
 11 et seq.), at the request of the grantee—

12 (1) to assist States and local educational agen-
 13 cies to recruit and retain highly qualified teachers in
 14 a school district located in an area affected by a
 15 Gulf hurricane disaster; and

16 (2) to assist institutions of higher education, lo-
 17 cated in such area to recruit and retain faculty nec-
 18 essary to prepare teachers and provide professional
 19 development.

204)

20 **SEC. 207. AUTHORIZED USES OF TRIO, GEAR-UP, PART A OR**
 21 **B OF TITLE III, AND OTHER GRANTS.**

22 The Secretary is authorized to modify the required
 23 and allowable uses of funds under chapters 1 and 2 of
 24 subpart 2 of part A of title IV of the Higher Education
 25 Act of 1965 (20 U.S.C. 1070a et seq., 1070a-21 et seq.),

1 under part A or B of title III (20 U.S.C. 1057 et seq.,
2 1060 et seq.), and under any other competitive grant pro-
3 gram, at the request of an affected institution or other
4 grantee, with respect to affected institutions and other
5 grantees located in an area affected by a Gulf hurricane
6 disaster. The Secretary may not, under the authority of
7 this section, authorize any new construction, renovation,
8 or improvement of classrooms, libraries, laboratories, or
9 other instructional facilities that is not authorized under
10 the institution's grant award, as in effect on the date of
11 enactment of this Act, under part A or B of title III of
12 such Act.

205

13 **SEC. 205. PROFESSIONAL JUDGMENT.**

14 A financial aid administrator shall be considered to
15 be making an adjustment in accordance with section
16 479A(a) of the Higher Education Act of 1965 (20 U.S.C.
17 1087tt(a)) if the financial aid administrator makes the ad-
18 justment with respect to the calculation of the expected
19 student or parent contribution (or both) for an affected
20 student, or for a student or a parent who resides or re-
21 sided on August 29, 2005, or was employed on August
22 29, 2005, in an area affected by a Gulf hurricane disaster.
23 The financial aid administrator shall adequately document
24 the need for the adjustment.

206

1 **SEC. 209. EXPANDING INFORMATION DISSEMINATION RE-**
2 **GARDING ELIGIBILITY FOR PELL GRANTS.**

3 (a) IN GENERAL.—The Secretary shall make special
4 efforts, in conjunction with State efforts, to notify affected
5 students and if applicable, their parents, who qualify for
6 means-tested Federal benefit programs, of their potential
7 eligibility for a maximum Pell Grant, and shall dissemi-
8 nate such informational materials as the Secretary deems
9 appropriate.

10 (b) MEANS-TESTED FEDERAL BENEFIT PRO-
11 GRAM.—For the purpose of this section, the term “means-
12 tested Federal benefit program” means a mandatory
13 spending program of the Federal Government, other than
14 a program under the Higher Education Act of 1965, in
15 which eligibility for the program’s benefits, or the amount
16 of such benefits, or both, are determined on the basis of
17 income or resources of the individual or family seeking the
18 benefit, and may include such programs as the supple-
19 mental security income program under title XVI of the
20 Social Security Act, the food stamp program under the
21 Food Stamp Act of 1977, the free and reduced price
22 school lunch program established under the Richard B.
23 Russell National School Lunch Act, the temporary assist-
24 ance to needy families program established under part A
25 of title IV of the Social Security Act, and the women, in-
26 fants, and children program established under section 17

1 of the Child Nutrition Act of 1966, and other programs
2 identified by the Secretary.

207)

3 **SEC. 210. PROCEDURES.**

4 (a) REGULATORY REQUIREMENTS INAPPLICABLE.—
5 Sections 482(c) and 492 of the Higher Education Act of
6 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the Gen-
7 eral Education Provisions Act (20 U.S.C. 1232), and sec-
8 tion 553 of title 5, United States Code, shall not apply
9 to this [subtitle].

10 (b) NOTICE OF WAIVERS, MODIFICATIONS, OR EX-
11 TENSIONS.—Notwithstanding section 437 of the General
12 Education Provisions Act (20 U.S.C. 1232) and section
13 553 of title 5, United States Code, the Secretary shall
14 make publicly available the waivers, modifications, or ex-
15 tensions granted under this [subtitle].

16 (c) CASE-BY-CASE BASIS.—The Secretary is not re-
17 quired to exercise any waiver or modification authority
18 under this [subtitle] on a case-by-case basis.

19 **SEC. 211. TERMINATION OF AUTHORITY.**

20 The authority of the Secretary to issue waivers or
21 modifications under this [subtitle] shall expire at the con-
22 clusion of the 2005–2006 academic year.

23 **SEC. 212. DEFINITIONS.**

24 For the purposes of this [subtitle], the following
25 terms have the following meanings:

209)

208)



1 (1) AFFECTED INDIVIDUAL.—The term “af-
2 fected individual” means an individual who has ap-
3 plied for or received student financial assistance
4 under title IV of the Higher Education Act of 1965,
5 and—

6 (A) who is an affected student; or

7 (B) whose primary place of employment or
8 residency was, as of August 29, 2005, in an
9 area affected by a Gulf hurricane disaster.

10 (2) AFFECTED INSTITUTION.—

11 (A) IN GENERAL.—The term “affected in-
12 stitution” means an institution of higher edu-
13 cation that—

14 (i) is located in an area affected by a
15 Gulf hurricane disaster; and

16 (ii) has temporarily ceased operations
17 as a consequence of a Gulf hurricane dis-
18 aster, as determined by the Secretary.

19 (B) LENGTH OF TIME.—In determining
20 eligibility for assistance under this subtitle,
21 the Secretary, using consistent, objective cri-
22 teria, shall determine the time period for which
23 an institution of higher education is an affected
24 institution.



1 (C) SPECIAL RULE.—An organizational
2 unit of an affected institution that is not im-
3 pacted by a Gulf hurricane disaster shall not be
4 considered as part of such affected institution
5 for purposes of receiving assistance under this
6 subtitle.

7 (3) AFFECTED STATE.—The term “affected
8 State” means the State of Alabama, Florida, Lou-
9 isiana, Mississippi, or Texas.

10 (4) AFFECTED STUDENT.—The term “affected
11 student” means an individual who was enrolled or
12 accepted for enrollment on August 29, 2005, at an
13 affected institution.

14 (5) AREA AFFECTED BY A GULF HURRICANE
15 DISASTER.—The term “area affected by a Gulf hur-
16 ricane disaster” means a county or parish, in an af-
17 fected State, that has been designated by the Fed-
18 eral Emergency Management Agency for disaster as-
19 sistance for individuals and households as a result of
20 Hurricane Katrina or Hurricane Rita.

21 (6) CANCELLED ENROLLMENT PERIOD.—The
22 term “cancelled enrollment period” means any pe-
23 riod of enrollment at an affected institution during
24 the academic year 2005–2006, during which stu-
25 dents were unable to attend such institution.

1 (7) GULF HURRICANE DISASTER.—The term
2 “Gulf hurricane disaster” means a major disaster
3 that the President declared to exist, in accordance
4 with section 401 of the Robert T. Stafford Disaster
5 Relief and Emergency Assistance Act, and that was
6 caused by Hurricane Katrina or Hurricane Rita.

7 (8) INSTITUTION OF HIGHER EDUCATION.—The
8 term “institution of higher education” means—

9 (A) an institution covered by the definition
10 of such term in section 101 of the Higher Edu-
11 cation Act of 1965 (20 U.S.C. 1001); and

12 (B) an institution described in subpara-
13 graph (A) or (B) of section 102(a)(1) of such
14 Act (20 U.S.C. 1002(a)(1)(A), (B)).

15 (9) QUALIFIED STUDENT LOAN.—The term
16 “qualified student loan” means any loan made, in-
17 sured, or guaranteed under part B, D, or E of title
18 IV of the Higher Education Act of 1965, other than
19 a loan under section 428B of such title or a Federal
20 Direct Plus loan.

21 (10) QUALIFIED PARENT LOAN.—The term
22 “qualified parent loan” means a loan made under
23 section 428B of title IV of the Higher Education
24 Act of 1965 or a Federal Direct Plus loan.

1 (11) SECRETARY.—The term “Secretary”
2 means the Secretary of Education.

3 **Subtitle C—Education and Related**
4 **Programs Hurricane Relief**

5 **SEC. 301. AGREEMENTS TO EXTEND CERTAIN DEADLINES**
6 **OF THE INDIVIDUALS WITH DISABILITIES**
7 **EDUCATION ACT TO FACILITATE THE PROVI-**
8 **SION OF EDUCATIONAL SERVICES TO CHIL-**
9 **DREN WITH DISABILITIES.**

10 (a) AUTHORITY.—The Secretary of Education may
11 enter into an agreement described in subsection (b) with
12 an eligible entity to extend certain deadlines under the In-
13 dividuals with Disabilities Education Act (20 U.S.C. 1400
14 et seq.) related to providing special education and related
15 services, including early intervention services, to individ-
16 uals adversely affected by a Gulf hurricane disaster.

17 (b) TERMS OF AGREEMENTS.—An agreement re-
18 ferred to in subsection (a) is an agreement with an eligible
19 entity made in accordance with subsection (e) that may
20 extend the applicable deadlines under one or more of the
21 following sections:

22 (1) Section 611(e)(3)(C)(ii) of such Act, by ex-
23 tending up to an additional 60 days the 90 day
24 deadline for developing a State plan for the high
25 cost fund.

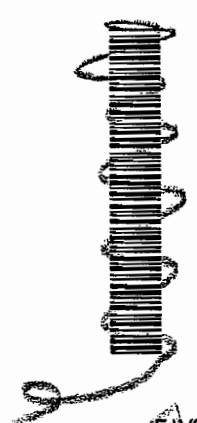
1 (2) Section 612(a)(15)(C) of such Act, by ex-
2 tending up to an additional 60 days the deadline for
3 submission of the annual report to the Secretary of
4 Education and the public regarding the progress of
5 the State and of children with disabilities in the
6 State.

7 (3) Section 612(a)(16)(D) of such Act, by ex-
8 tending up to an additional 60 days the deadline for
9 making available reports regarding the participation
10 in assessments and the performance on such assess-
11 ments of children with disabilities.

12 (4) Section 614(a)(1)(C)(i)(I) of such Act, by
13 extending up to an additional 30 days the 60 day
14 deadline for the initial evaluation to determine
15 whether a child is a child with a disability for pur-
16 poses of the provision of special education and re-
17 lated services to such child.

18 (5) Section 616(b)(1)(A) of such Act, by ex-
19 tending up to an additional 60 days the deadline for
20 finalization of the State performance plan.

21 (6) Section 641(e)(1)(D) of such Act, by ex-
22 tending up to an additional 60 days the deadline for
23 submission to the Governor of a State and the Sec-
24 retary of Education of the report on the status of
25 early intervention programs for infants and toddlers



1 with disabilities and their families operated within
2 the State.

3 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed—

5 (1) as permitting the waiver of—

6 (A) any applicable Federal civil rights law;

7 (B) any student or family privacy protec-
8 tions, including provisions requiring parental
9 consent for evaluations and services;

10 (C) any procedural safeguards required
11 under section 615 or section 639 of the Individ-
12 uals with Disabilities Education Act; or

13 (D) any requirements not specified in sub-
14 section (b) of this section; or

15 (2) as removing the obligation of the eligible en-
16 tity to provide a child with a disability or an infant
17 or toddler with a disability and their families—

18 (A) a free appropriate public education
19 under part B of the Individuals with Disabil-
20 ities Education Act; or

21 (B) early intervention services under part
22 C of such Act.

23 (d) DURATION OF AGREEMENT.—An agreement
24 under this section shall terminate at the conclusion of the
25 2005–2006 academic year.

1 (e) REQUEST TO ENTER INTO AGREEMENT.—To
2 enter into an agreement under this section, an eligible en-
3 tity shall submit a request to the Secretary of Education
4 at such time, in such manner, and containing such infor-
5 mation as the Secretary may require.

6 **SEC. 302. HEAD START AND CHILD CARE AND DEVELOP-**
7 **MENT BLOCK GRANTS.**

8 (a) HEAD START.—

9 (1) ~~HEAD START ACT.—For an~~ additional
10 amount to carry out the Head Start Act,
11 \$90,000,000 to be available notwithstanding sub-
12 sections (a), (b), and (g) of section 640 of such Act,
13 to serve children displaced by a Gulf hurricane dis-
14 aster, including additional services to help such chil-
15 dren in coping with the effects of trauma and to
16 cover the costs of renovating those Head Start facili-
17 ties that were affected by such disaster, to the ex-
18 tent reimbursements from FEMA and insurance
19 companies do not fully cover such costs: Provided,
20 That the amount made available under this para-
21 graph is designated as an emergency requirement
22 pursuant to section 402 of H. Con. Res. 95, 109th
23 Congress (the concurrent resolution on the budget
24 for fiscal year 2006), and that 3 percent of such

1 ~~amount shall be available to carry out paragraph~~

2 ~~(2)~~

3 (2) TECHNICAL ASSISTANCE, GUIDANCE, AND

4 RESOURCES.—From the amount made available by

5 ~~[paragraph (1)] to carry out [this subsection], the~~

6 Secretary of Health and Human Services shall pro-

7 vide training and technical assistance, guidance, and

8 resources through the Region 4 and Region 6 offices

9 of the Administration for Children and Families

10 (and may provide training and technical assistance,

11 guidance, and resources through other regional of-

12 fices of the Administration, at the request of such

13 offices that administer affected Head Start agencies

14 and Early Head Start entities) to Head Start agen-

15 cies and Early Head Start entities in areas in which

16 ~~a major disaster has been declared~~, and to affected

17 Head Start agencies and Early Head Start entities,

18 to assist the agencies and entities involved to ad-

19 dress the health and counseling needs of infants,

20 toddlers, and young children affected by a Gulf hur-

21 ricane disaster. Such training and technical assist-

22 ance may be provided by contract or cooperative

23 agreement with qualified national, regional, or local

24 providers.

for
Head
Start
in this
Act

affected
by a
Gulf
hurricane

(2)

1 (3) WAIVER.—For such period up to September
2 30, 2006, and to such extent as the Secretary con-
3 siders appropriate, the Secretary of Health and
4 Human Services—

5 (A) may waive section 640(b) of the Head
6 Start Act for Head Start agencies located in an
7 area affected by a Gulf hurricane disaster, and
8 other affected Head Start agencies and Early
9 Head Start agencies; and

10 (B) shall waive requirements of docu-
11 mentation for individuals adversely affected by
12 a Gulf hurricane disaster who participate in a
13 Head Start program or an Early Head Start
14 program funded under the Head Start Act.

15 (b) CHILD CARE AND DEVELOPMENT BLOCK
16 GRANTS.—

17 (1) CHILD CARE AND DEVELOPMENT BLOCK
18 GRANT ACT OF 1990.—For such period up to Sep-

19 tember 30, 2006, and to such extent as the Sec-
20 retary considers to be appropriate, the Secretary of
21 Health and Human Services may waive, for any af-
22 fected State, and any State serving significant num-
23 bers of individuals adversely affected by a Gulf hur-
24 ricane disaster, provisions of the Child Care and De-



1 velopment Block Grant Act of 1990 (42 U.S.C.
2 9858 et seq.)—

3 (A) relating to Federal income limitations
4 on eligibility to receive child care services for
5 which assistance is provided under such Act;

6 (B) relating to work requirements applica-
7 ble to eligibility to receive child care services for
8 which assistance is provided under such Act;

9 (C) relating to limitations on the use of
10 funds under section 658G of the Child Care
11 and Development Block Grant Act of 1990;

12 (D) preventing children designated as evac-
13 uees from receiving priority for child care serv-
14 ices provided under such Act, except that chil-
15 dren residing in a State and currently receiving
16 services should not lose such services to accom-
17 modate evacuee children; and

18 (E) relating to any non-Federal or capital
19 contribution required (including copayment or
20 other cost sharing by parents receiving child
21 care assistance) to match Federal funds pro-
22 vided under programs administered by the Sec-
23 retary of Health and Human Services;

24 (2) TECHNICAL ASSISTANCE AND GUIDANCE.—
25 The Secretary may provide assistance to States for

1 the purpose of providing training, technical assist-
 2 ance, and guidance to eligible child care providers
 3 (as defined in section 658P of the Child Care and
 4 Development Block Grant Act of 1990) who are li-
 5 censed and regulated, as applicable, by the States, to
 6 enable such providers to provide child care services
 7 for children and families described in paragraph (1).
 8 Such training and technical assistance may be pro-
 9 vided through intermediary organizations, including
 10 those with demonstrated experience in providing
 11 training and technical assistance to programs serv-
 12 ing school-age children up to age 13, involved in re-
 13 instituting child care services on a broad scale in
 14 areas affected by a Gulf hurricane disaster.

15 **SEC. 303. DEFINITIONS.**

16 (a) IN GENERAL.—Unless otherwise specified in this
 17 [subtitle], the terms used in this [subtitle] have the mean-
 18 ings given the terms in section 9101 of the Elementary
 19 and Secondary Education Act of 1965.

20 (b) ADDITIONAL DEFINITIONS.—For the purposes of
 21 this [subtitle]:

22 (1) AFFECTED HEAD START AGENCIES AND
 23 EARLY HEAD START AGENCIES.—The term “affected
 24 Head Start Agencies and Early Head Start Agen-
 25 cies” means a Head Start agency receiving a signifi-

1 cant number of children from an area in which a
2 Gulf hurricane disaster has been declared.

3 (2) AFFECTED STATE.—The term “affected
4 State” means the State of Alabama, Florida, Lou-
5 isiana, Mississippi, or Texas.

6 (3) AREA AFFECTED BY A GULF HURRICANE
7 DISASTER.—The term “area affected by a Gulf hur-
8 ricane disaster” means a county or parish, in an af-
9 fected State, that has been designated by the Fed-
10 eral Emergency Management Agency for disaster as-
11 sistance for individuals and households as a result of
12 Hurricane Katrina or Hurricane Rita.

13 (4) CHILD WITH A DISABILITY.—The term
14 “child with a disability” has the meaning given such
15 term in section 602(3) of the Individuals with Dis-
16 abilities Education Act.

17 (5) ELIGIBLE ENTITY.—The term “eligible enti-
18 ty” means—

19 (A) a local educational agency (as defined
20 in section 602(19) of the Individuals with Dis-
21 abilities Education Act) if such agency is lo-
22 cated in a State or in an area of a State with
23 respect to which the President has declared
24 that a Gulf hurricane disaster exists;



1 (B) a State educational agency (as defined
2 in section 602(32) of such Act) if such agency
3 is located in a State with respect to which the
4 President has declared that a Gulf hurricane
5 disaster exists; or

6 (C) a State interagency coordinating coun-
7 cil established under section 641 of such Act if
8 such council is located in a State with respect
9 to which the President has declared that a Gulf
10 hurricane disaster exists.

11 (6) GULF HURRICANE DISASTER.—The term
12 “Gulf hurricane disaster” means a major disaster
13 that the President declared to exist, in accordance
14 with section 401 of the Robert T. Stafford Disaster
15 Relief and Emergency Assistance Act, and that was
16 caused by Hurricane Katrina or Hurricane Rita.

17 (7) HIGHLY QUALIFIED.—The term “highly
18 qualified”—

19 (A) in the case of a special education
20 teacher, has the meaning given such term in
21 section 602 of the Individuals with Disabilities
22 Education Act; and

23 (B) in the case of any other elementary,
24 middle, or secondary school teacher, has the
25 meaning given such term in section 9101 of the



1 Elementary and Secondary Education Act of
2 1965.

3 (8) INDIVIDUAL ADVERSELY AFFECTED BY A
4 GULF HURRICANE DISASTER.—The term “individual
5 adversely affected by a Gulf hurricane disaster”
6 means an individual who, on August 22, 2005, was
7 living, working, or attending school in an area in
8 which the President has declared to exist a Gulf hur-
9 ricane disaster.

(29)

10 (9) INFANT OR TODDLER WITH A DIS-
11 ABILITY.—The term “infant or toddler with a dis-
12 ability” has the meaning given such term in section
13 632(5) of the Individuals with Disabilities Education
14 Act.



12/17/05

1

TITLE VI

2

GENERAL PROVISIONS AND TECHNICAL

3

CORRECTIONS

4

SEC. _____. No part of any appropriation contained

5

in this Act shall remain available for obligation beyond

6

the current fiscal year unless expressly so provided herein.

7

SEC. _____. Except as expressly provided otherwise,

8

any reference to "this Act" contained in either division

9

A or division B shall be treated as referring only to the

10

provisions of that division.

11

SEC. _____. Effective upon the enactment of this Act,

12

none of the funds appropriated or otherwise made avail-

13

able by the 2001 Emergency Supplemental Appropriations

14

Act for Recovery from and Response to Terrorist Attacks

15

on the United States (Public Law 107-38) shall be trans-

16

ferred to or from the Emergency Response Fund.

5001)

5002)

5003)

12/17/05

5004) 1 SEC. ____ . Title I of the Agriculture, Rural Develop-
2 ment, Food and Drug Administration, and Related Agen-
3 cies Appropriations Act, 2006 (Public Law 109-97) is
4 amended in the paragraph under the heading "Coopera-
5 tive State Research, Education, and Extension Service,
6 Research and Education Activities" (109 Stat. 2126) by
7 inserting ", to remain available until expended" after "for
8 a veterinary medicine loan repayment program pursuant
9 to section 1415A of the National Agricultural Research,
10 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
11 3101 et seq.), \$500,000".

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SEN. APPROP.

23 ~~GENERAL PROVISIONS~~

5005

24 SEC. _____. Section 207 of division C of Public Law
25 108-447 is amended by inserting “, and any effects of
26 inflation thereon,” after the word “increase”.

5006

1 SEC. _____. The matter under the heading “Water
2 and Related Resources” in Public Law 109-103 is amend-
3 ed by inserting before the period at the end the following:
4 “: *Provided further*, That \$10,000,000 of the funds appro-
5 priated under this heading shall be deposited in the San
6 Gabriel Basin Restoration Fund established by section
7 110 of title I of appendix D of Public Law 106-554”.

5007

8 SEC. _____. The funds appropriated in Public Law
9 109-103 under the heading “Bureau of Reclamation,
10 Water and Related Resources” for the Placer County,
11 California Sub-Regional Wastewater Treatment Project
12 are hereby transferred to and merged with the amount ap-
13 propriated in such public law under the heading “Corps
14 of Engineers—Civil, Construction”, and shall be used for
15 the construction of such project under the same terms and
16 conditions that would have been applicable if such funds
17 had originally been appropriated to the Corps of Engi-
18 neers.

5008

19 SEC. _____. Section 118 of Public Law 109-103 is
20 amended by striking “106-541” and inserting “106-53”
21 in lieu thereof.

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SEN. APPROP.

5009) 22 SEC. ____ . Public Law 109-103 is amended under
23 the heading "Corps of Engineers—Civil, Investigations",
24 by striking "*Provided further, That using \$8,000,000*"
25 and all that follows to the end of the paragraph, and in-
1 sserting in lieu thereof, "*Provided further, That using*
2 \$8,000,000 of the funds provided herein, the Secretary of
3 the Army, acting through the Chief of Engineers, is di-
4 rected to conduct a comprehensive hurricane protection
5 analysis and design at full federal expense to develop and
6 present a full range of flood control, coastal restoration,
7 and hurricane protection measures exclusive of normal
8 policy considerations for South Louisiana and the Sec-
9 retary shall submit a preliminary technical report for com-
10 prehensive Category 5 protection within 6 months of en-
11 actment of this Act and a final technical report for Cat-
12 egory 5 protection within 24 months of enactment of this
13 Act: *Provided further, That the Secretary shall consider*
14 *providing protection for a storm surge equivalent to a Cat-*
15 *egory 5 hurricane within the project area and may submit*
16 *reports on component areas of the larger protection pro-*
17 *gram for authorization as soon as practicable: *Provided**
18 *further, That the analysis shall be conducted in close co-*
19 *ordination with the State of Louisiana and its appropriate*
20 *agencies."*

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SEN. APPROP. .

S010

21 SEC. _____ Funds made available under the heading
22 "Construction, Rehabilitation, Operation and Mainte-
23 nance, Western Area Power Administration" in Public
24 Law 109-103 shall be available for the operation, mainte-
1 nance, and purchase, through transfer, exchange, or sale,
2 of one helicopter for replacement only.

~~12/17/05~~

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~~SUN. 11/16/01~~

~~5~~

5011

1 SEC. . (a) In addition to the amounts provided
2 elsewhere in this Act, \$50,000,000 is hereby appropriated
3 to the Department of Labor, to remain available until ex-
4 pended, for payment to the New York State Uninsured
5 Employers Fund for reimbursement of claims related to
6 the September 11, 2001, terrorist attacks on the United
7 States and for reimbursement of claims related to the first
8 response emergency services personnel who were injured,
9 were disabled, or died due to such terrorist attacks.

10 (b) In addition to the amounts provided elsewhere in
11 this Act, \$75,000,000 is hereby appropriated to the Cen-
12 ters for Disease Control and Prevention, to remain avail-
13 able until expended, for purposes related to the September
14 11, 2001, terrorist attacks on the United States. In ex-
15 pending such funds, the Director of the Centers for Dis-
16 ease Control and Prevention shall (1) give first priority
17 to existing programs that administer baseline and follow-
18 up screening, clinical examinations, or long-term medical
19 health monitoring, analysis, or treatment for emergency
20 services personnel or rescue and recovery personnel, as co-
21 ordinated by the Mount Sinai Center for Occupational and
22 Environmental Medicine of New York City, the New York
23 City Fire Department's Bureau of Health Services and
24 Counseling Services Unit, the New York City Police Foun-
25 dation's Project COPE, the Police Organization Providing

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~~SEN. APPROV.~~

~~6~~

1 Peer Assistance of New York City, and the New York City
2 Department of Health and Mental Hygiene's World Trade
3 Center Health Registry; and (2) give secondary priority
4 to similar programs coordinated by other entities working
5 with the State of New York and New York City.

6 (c) Each amount appropriated in this section is des-
7 igned as an emergency requirement pursuant to section
8 402 of H. Con. Res. 95 (109th Congress), the concurrent
9 resolution on the budget for fiscal year 2006.

10 SEC. _____. The Flexibility for Displaced Workers Act
11 (Public Law 109-72) is amended by striking "Hurricane
12 Katrina" each place it appears and inserting "hurricanes
13 in the Gulf of Mexico in calendar year 2005".

5012)

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5013

1 SEC. ____ . Section 124 of Public Law 109-114 is
2 amended by inserting before the period at the end the fol-
3 lowing: “: *Provided further*, That nothing in this section
4 precludes the Secretary of a military department, after no-
5 tifying the congressional defense committees and waiting
6 21 days, from using funds derived under section 2601,
7 chapter 403, chapter 603, or chapter 903 of title 10,
8 United States Code, for the maintenance or repair of Gen-
9 eral and Flag Officer Quarters at the military service
10 academy under the jurisdiction of that Secretary: *Provided*
11 *further*, That each Secretary of a military department
12 shall provide an annual report by February 15 to the con-
13 gressional defense committees on the amount of funds that
14 were derived under section 2601, chapter 403, chapter
15 603, or chapter 903 of title 10, United States Code in
16 the previous year and were obligated for the construction,
17 improvement, repair, or maintenance of any military facil-
18 ity or infrastructure.”

5014

19 SEC. ____ . Section 128 of Public Law 109-114 is
20 amended as follows—
21 (1) by inserting after “support” the following:
22 “a continuing mission or function at that installa-
23 tion or”; and
24 (2) by inserting after the last period the fol-
25 lowing: “This section shall not apply to military con-

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1 construction projects, land acquisition, or family hous-
2 ing projects for which the project is vital to the na-
3 tional security or the protection of health, safety, or
4 environmental quality: *Provided*, That the Secretary
5 of Defense shall notify the congressional defense
6 committees within seven days of a decision to carry
7 out such a military construction project.”.

5015)

8 SEC. _____. The amount provided for “Military Con-
9 struction, Army” in Public Law 109–114 is hereby re-
10 duced by \$8,100,000 for the Special Operations Free Fall
11 Simulator at Yuma Proving Ground, Arizona.

12 The amount provided for “Military Construction,
13 Army” in Public Law 109–114 is hereby increased by
14 \$8,100,000 for the Upgrade Wastewater Treatment Plant
15 at Yuma Proving Ground, Arizona.

16 ~~SEC. _____. Notwithstanding any other provision of~~
17 ~~law, all military construction projects and military family~~
18 ~~housing projects for which funds are appropriated in Pub-~~
19 ~~lic Law 109–114, and architectural and engineering serv-~~
20 ~~ices and construction design obtained in connection with~~
21 ~~military construction projects and military family housing~~
22 ~~projects, are hereby authorized.~~

5016)

23 SEC. _____. The last paragraph of Public Law 109–
24 114 is amended by inserting “Military Construction,” be-
25 fore “Military Quality”.

12/17/05

HOUSE

(a) } 1 ~~SEC.~~ Section 613 of Public Law 109-108 is
 2 amended by striking "\$500,000 shall be for a grant to
 3 Warren County, Virginia, for a community enhancement
 4 project;" and inserting "\$250,000 shall be for a grant to
 5 Warren County, Virginia, for a community enhancement
 6 project; \$250,000 shall be for a grant to The ARC of
 7 Loudoun County for land acquisition and construction;"

5017

(b) } 8 ~~SEC.~~ Section 619(a) of division B in Public
 9 Law 108-447 is amended by striking "\$50,000 shall be
 10 available for a grant for the Promesa Foundation in the
 11 Bronx, New York, to provide community growth funding;"
 12 and inserting "\$50,000 shall be available for a grant to
 13 the Promesa Foundation to provide financial assistance to
 14 New York area families and organizations under a youth
 15 sports and recreational initiative;"

(c) } 16 ~~SEC.~~ Section 621 of division B in Public Law
 17 108-199 is amended by striking "\$200,000 shall be avail-
 18 able for a grant for the Promesa Foundation in South
 19 Bronx, New York, to provide community growth funding;"
 20 and inserting "\$200,000 shall be available for a grant to
 21 the Promesa Foundation to provide financial assistance to
 22 New York area families and organizations under a youth
 23 sports and recreational initiative;"

(d) } 24 ~~SEC.~~ Section 625 of division B in Public Law
 25 108-7 is amended by striking "\$200,000 shall be available

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4

1 for a grant for the Promesa Foundation in South Bronx,
2 New York to provide community growth funding;" and in-
3 serting "\$200,000 shall be available for a grant to the
4 Promesa Foundation to provide financial assistance to
5 New York area families and organizations under a youth
6 sports and recreational initiative;"

5018 /
7 SEC. _____ . Public Law 109-108 is amended under
8 the heading "State and Local Law Enforcement Assist-
9 ance" in subparagraph 4 by striking "authorized by sub-
10 part 2 of part E, of title I of the 1968 Act, notwith-
11 standing the provisions of section 511 of said Act".

1 (TRANSFER OF FUNDS)

2 SEC. ____ The unobligated and unexpended balances
3 of the amount appropriated under the heading "United
4 States-Canada Railroad Commission" by chapter 9 of title
5 II of Public Law 107-20 shall be transferred as a direct
6 lump-sum payment to the University of Alaska.

5019)

12/17/05

5020)

1 SEC. _____. The matter under the heading "Federal
2 Transit Administration, capital investment grants" in title
3 I of division A of Public Law 109-115 is amended by
4 striking "Virginia, \$26,000,000" and inserting "Virginia,
5 \$30,000,000"; by striking "Ohio, \$24,770,000" and in-
6 serting "Ohio, \$24,774,513"; and by striking "Metro,
7 Pennsylvania, \$2,000,000" and inserting "Metro, Penn-
8 sylvania, \$4,000,000".

5021)

9 SEC. _____. For purposes of compliance with section
10 205 of Public Law 109-115, a reduction in taxpayer serv-
11 ice shall include, but not be limited to, any reduction in
12 available hours of telephone taxpayer assistance on a daily,
13 weekly and monthly basis below the levels in existence dur-
14 ing the month of October 2005.

5022)

15 SEC. _____. The referenced statement of the managers
16 under the heading "Community development fund" in
17 Public Law 108-447 is amended with respect to item
18 number 145 by striking "Putnam County, Missouri" and
19 inserting "Sullivan County, Missouri".

5023)

20 SEC. _____. The statement of the managers correction
21 referenced under the second paragraph of the heading
22 "Community development fund" in title III of Public Law
23 109-115 (as in effect pursuant to H. Con. Res. 308,
24 109th Congress) is deemed to be amended—

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10

1 (1) with respect to item number 65 by striking
2 "\$125,000 to Esperanza Mercado Project, California
3 for the Esperanza Community Maple-Mae Project;"
4 and inserting "\$125,000 to the Esperanza Commu-
5 nity Housing Corporation, Los Angeles, California
6 for the Mercado La Paloma project;"

7 (2) with respect to item number 840 by striking
8 "\$100,000 to Gwen's Girls, Inc. in Pittsburgh,
9 Pennsylvania for construction of a residential facil-
10 ity;" and inserting "\$100,000 to the Bloomfield-
11 Garfield Association in Pittsburgh, Pennsylvania for
12 acquisition and demolition;"

13 (3) with respect to item number 411 by striking
14 "\$200,000 to the City of Holyoke, Massachusetts for
15 renovations of facility for Solutions Development
16 Corporation;" and inserting "\$200,000 to Solutions
17 Development Inc. of Holyoke, Massachusetts for fa-
18 cility renovations;"

19 (4) with respect to item number 314 by striking
20 "\$225,000 to the City of Harvey, Illinois for demoli-
21 tion and redevelopment of property to aid the com-
22 munity;" and inserting "\$225,000 to the Village of
23 Riverdale, Illinois for planning, design, acquisition,
24 and demolition;"

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1 (5) with respect to item number 715 by striking
2 "39th" and inserting "59th";

3 (6) with respect to item number 26 by striking
4 "Center" and inserting "College";

5 (7) with respect to item number 372 by striking
6 "Fairview, Kansas" and inserting "Fairway, Kan-
7 sas";

8 (8) with respect to item number 584 by striking
9 "City of Asheville, North Carolina for the renovation
10 of the Asheville Veterans Memorial Stadium" and
11 inserting "UNC Asheville Science and Multimedia
12 Center, City of Asheville, North Carolina for the
13 construction of a new science and multi-media build-
14 ing"; and

15 (9) with respect to item number 341 by striking
16 "Village of Northfield, IL" and inserting "Northfield
17 Park District of Illinois".

18 SEC. _____. The referenced statement of the managers
19 under the heading "Community development fund" in title
20 II of division I of Public Law 108-447 is deemed to be
21 amended with respect to item 571 by striking "\$575,000
22 to the Metropolitan Development Association in Syracuse,
23 New York for the Essential New York Initiative" and in-
24 serting "\$200,000 to the Monroe County Industrial Devel-
25 opment Agency for streetscape and infrastructure im-

5024)

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1 provements to the Medley Center in the Town of
2 Irondequoit, New York; \$90,000 to the City of Syracuse,
3 New York for facilities and equipment improvements for
4 the Syracuse Food Bank; \$200,000 to the City of Syra-
5 cuse, New York for renovations and infrastructure im-
6 provements to the Lofts on Willow Urban Village project;
/ 7 and, \$85,000 to Cayuga County, New York for the CIVIC
8 Heritage Historical Society for the construction of a his-
9 tory center;”.

Insert)
12A

Insert 12A

5025)

Sec. ____ . Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery ~~From~~ and Response to Terrorist Attacks on the United States (Public Law 107-38) shall be transferred to or from the Emergency Response Fund.

/lc

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SEN. APPROP.

1 This division may be cited as the “Emergency Sup-
2 plemental Appropriations Act to Address Hurricanes in
3 the Gulf of Mexico and Pandemic Influenza, 2006”.

1 **DIVISION C—AMERICAN ENERGY**
2 **INDEPENDENCE AND SECU-**
3 **RITY ACT OF 2005**

1 —————
4 **SEC. ~~101~~. SHORT TITLE.**

5 This division may be cited as the “American Energy
6 Independence and Security Act of 2005”.

2 —————
7 **SEC. ~~102~~. DEFINITIONS.**

8 In this division:

9 (1) **COASTAL PLAIN.**—The term “Coastal
10 Plain” means that area identified as the “1002
11 Coastal Plain Area” on the map.

12 (2) **FEDERAL AGREEMENT.**—The term “Fed-
13 eral Agreement” means the Federal Agreement and
14 Grant Right-of-Way for the Trans-Alaska Pipeline
15 issued on January 23, 1974, in accordance with sec-
16 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
17 and the Trans-Alaska Pipeline Authorization Act
18 (43 U.S.C. 1651 et seq.).

19 (3) **FINAL STATEMENT.**—The term “Final
20 Statement” means the final legislative environmental
21 impact statement on the Coastal Plain, dated April
22 1987, and prepared pursuant to section 1002 of the
23 Alaska National Interest Lands Conservation Act

1 (16 U.S.C. 3142) and section 102(2)(C) of the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C.
3 4332(2)(C)).

4 (4) MAP.—The term “map” means the map en-
5 titled “Arctic National Wildlife Refuge”, dated Sep-
6 tember 2005, and prepared by the United States Ge-
7 ological Survey.

8 (5) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior (or the designee of the
10 Secretary), acting through the Director of the Bu-
11 reau of Land Management in consultation with the
12 Director of the United States Fish and Wildlife
13 Service and in coordination with a State coordinator
14 appointed by the Governor of the State of Alaska.

15 ~~SEC.~~ **03. LEASING PROGRAM FOR LAND WITHIN THE**
16 **COASTAL PLAIN.**

3)

17 (a) IN GENERAL.—

18 (1) AUTHORIZATION.—Congress authorizes the
19 exploration, leasing, development, production, and
20 economically feasible and prudent transportation of
21 oil and gas in and from the Coastal Plain.

22 (2) ACTIONS.—The Secretary shall take such
23 actions as are necessary—

24 (A) to establish and implement, in accord-
25 ance with this division, a competitive oil and

1 gas leasing program that will result in an envi-
2 ronmentally sound program for the exploration,
3 development, and production of the oil and gas
4 resources of the Coastal Plain while taking into
5 consideration the interests and concerns of resi-
6 dents of the Coastal Plain, which is the home-
7 land of the Kaktovikmiut Inupiat; and

8 (B) to administer this division through
9 regulations, lease terms, conditions, restrictions,
10 prohibitions, stipulations, and other provisions
11 that—

12 (i) ensure the oil and gas exploration,
13 development, and production activities on
14 the Coastal Plain will result in no signifi-
15 cant adverse effect on fish and wildlife,
16 their habitat, subsistence resources, and
17 the environment; and

18 (ii) require the application of the best
19 commercially available technology for oil
20 and gas exploration, development, and pro-
21 duction to all exploration, development,
22 and production operations under this divi-
23 sion in a manner that ensures the receipt
24 of fair market value by the public for the
25 mineral resources to be leased.

1 (b) REPEAL.—

2 (1) REPEAL.—Section 1003 of the Alaska Na-
3 tional Interest Lands Conservation Act (16 U.S.C.
4 3143) is repealed.

5 (2) CONFORMING AMENDMENT.—The table of
6 contents contained in section 1 of that Act (16
7 U.S.C. 3101 note) is amended by striking the item
8 relating to section 1003.

9 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
10 TAIN OTHER LAWS.—

11 (1) COMPATIBILITY.—For purposes of the Na-
12 tional Wildlife Refuge System Administration Act of
13 1966 (16 U.S.C. 668dd et seq.)—

14 (A) the oil and gas pre-leasing and leasing
15 program, and activities authorized by this sec-
16 tion in the Coastal Plain, shall be considered to
17 be compatible with the purposes for which the
18 Arctic National Wildlife Refuge was established;
19 and

20 (B) no further findings or decisions shall
21 be required to implement that program and
22 those activities.

23 (2) ADEQUACY OF THE DEPARTMENT OF THE
24 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
25 STATEMENT.—The Final Statement shall be consid-

1 ered to satisfy the requirements under the National
2 Environmental Policy Act of 1969 (42 U.S.C. 4321
3 et seq.) that apply with respect to pre-leasing activi-
4 ties, including exploration programs and actions au-
5 thorized to be taken by the Secretary to develop and
6 promulgate the regulations for the establishment of
7 a leasing program authorized by this division before
8 the conduct of the first lease sale.

9 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
10 TIONS.—

11 (A) IN GENERAL.—Before conducting the
12 first lease sale under this division, the Secretary
13 shall prepare an environmental impact state-
14 ment in accordance with the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et
16 seq.) with respect to the actions authorized by
17 this division that are not referred to in para-
18 graph (2).

19 (B) IDENTIFICATION AND ANALYSIS.—
20 Notwithstanding any other provision of law, in
21 carrying out this paragraph, the Secretary shall
22 not be required—

23 (i) to identify nonleasing alternative
24 courses of action; or

1 (ii) to analyze the environmental ef-
2 fects of those courses of action.

3 (C) IDENTIFICATION OF PREFERRED AC-
4 TION.—Not later than 18 months after the date
5 of enactment of this Act, the Secretary shall—

6 (i) identify only a preferred action and
7 a single leasing alternative for the first
8 lease sale authorized under this division;
9 and

10 (ii) analyze the environmental effects
11 and potential mitigation measures for
12 those 2 alternatives.

13 (D) PUBLIC COMMENTS.—In carrying out
14 this paragraph, the Secretary shall consider
15 only public comments that are filed not later
16 than 20 days after the date of publication of a
17 draft environmental impact statement.

18 (E) EFFECT OF COMPLIANCE.—Notwith-
19 standing any other provision of law, compliance
20 with this paragraph shall be considered to sat-
21 isfy all requirements for the analysis and con-
22 sideration of the environmental effects of pro-
23 posed leasing under this division.

1 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
2 ITY.—Nothing in this division expands or limits any State
3 or local regulatory authority.

4 (e) SPECIAL AREAS.—

5 (1) DESIGNATION.—

6 (A) IN GENERAL.—The Secretary, after
7 consultation with the State of Alaska, the
8 North Slope Borough, Alaska, and the City of
9 Kaktovik, Alaska, may designate not more than
10 45,000 acres of the Coastal Plain as a special
11 area if the Secretary determines that the special
12 area would be of such unique character and in-
13 terest as to require special management and
14 regulatory protection.

15 (B) SADLEROCHIT SPRING AREA.—The
16 Secretary shall designate as a special area in
17 accordance with subparagraph (A) the
18 Sadlerochit Spring area, comprising approxi-
19 mately 4,000 acres as depicted on the map.

20 (2) MANAGEMENT.—The Secretary shall man-
21 age each special area designated under this sub-
22 section in a manner that—

23 (A) respects and protects the Native people
24 of the area; and

1 (B) preserves the unique and diverse char-
2 acter of the area, including fish, wildlife, sub-
3 sistence resources, and cultural values of the
4 area.

5 (3) EXCLUSION FROM LEASING OR SURFACE
6 OCCUPANCY.—

7 (A) IN GENERAL.—The Secretary may ex-
8 clude any special area designated under this
9 subsection from leasing.

10 (B) NO SURFACE OCCUPANCY.—If the Sec-
11 retary leases all or a portion of a special area
12 for the purposes of oil and gas exploration, de-
13 velopment, production, and related activities,
14 there shall be no surface occupancy of the land
15 comprising the special area.

16 (4) DIRECTIONAL DRILLING.—Notwithstanding
17 any other provision of this subsection, the Secretary
18 may lease all or a portion of a special area under
19 terms that permit the use of horizontal drilling tech-
20 nology from sites on leases located outside the spe-
21 cial area.

22 (f) LIMITATION ON CLOSED AREAS.—The Secretary
23 may not close land within the Coastal Plain to oil and gas
24 leasing or to exploration, development, or production ex-
25 cept in accordance with this division.

1 (g) REGULATIONS.—

2 (1) IN GENERAL.—Not later than 15 months
3 after the date of enactment of this Act, in consulta-
4 tion with appropriate agencies of the State of Alas-
5 ka, the North Slope Borough, Alaska, and the City
6 of Kaktovik, Alaska, the Secretary shall issue such
7 regulations as are necessary to carry out this divi-
8 sion, including rules and regulations relating to pro-
9 tection of the fish and wildlife, fish and wildlife habi-
10 tat, and subsistence resources of the Coastal Plain.

11 (2) REVISION OF REGULATIONS.—The Sec-
12 retary may periodically review and, as appropriate,
13 revise the rules and regulations issued under para-
14 graph (1) to reflect any significant scientific or engi-
15 neering data that come to the attention of the Sec-
16 retary.

17 SEC. ~~04~~ 04. LEASE SALES.

4) 18 (a) IN GENERAL.—Land may be leased pursuant to
19 this division to any person qualified to obtain a lease for
20 deposits of oil and gas under the Mineral Leasing Act (30
21 U.S.C. 181 et seq.).

22 (b) PROCEDURES.—The Secretary shall, by regula-
23 tion, establish procedures for—

24 (1) receipt and consideration of sealed nomina-
25 tions for any area in the Coastal Plain for inclusion

1 in, or exclusion (as provided in subsection (c)) from,
2 a lease sale;

3 (2) the holding of lease sales after that nomina-
4 tion process; and

5 (3) public notice of and comment on designa-
6 tion of areas to be included in, or excluded from, a
7 lease sale.

8 (c) LEASE SALE BIDS.—Bidding for leases under
9 this division shall be by sealed competitive cash bonus
10 bids.

11 (d) ACREAGE MINIMUM IN FIRST SALE.—For the
12 first lease sale under this division, the Secretary shall offer
13 for lease those tracts the Secretary considers to have the
14 greatest potential for the discovery of hydrocarbons, tak-
15 ing into consideration nominations received pursuant to
16 subsection (b)(1), but in no case less than 200,000 acres.

17 (e) TIMING OF LEASE SALES.—The Secretary
18 shall—

19 (1) not later than 22 months after the date of
20 enactment of this Act, conduct the first lease sale
21 under this division;

22 (2) not later than September 30, 2010, conduct
23 a second lease sale under this division; and

24 (3) conduct additional sales at appropriate in-
25 tervals if sufficient interest in exploration or devel-

1 opment exists to warrant the conduct of the addi-
2 tional sales.

3 **SEC. ~~05~~ 05. GRANT OF LEASES BY THE SECRETARY.**

4 (a) IN GENERAL.—Upon payment by a lessee of such
5 bonus as may be accepted by the Secretary, the Secretary
6 may grant to the highest responsible qualified bidder in
7 a lease sale conducted pursuant to section ~~2-04~~ a lease
8 for any land on the Coastal Plain.

9 (b) SUBSEQUENT TRANSFERS.—

10 (1) IN GENERAL.—No lease issued under this
11 division may be sold, exchanged, assigned, sublet, or
12 otherwise transferred except with the approval of the
13 Secretary.

14 (2) CONDITION FOR APPROVAL.—Before grant-
15 ing any approval described in paragraph (1), the
16 Secretary shall consult with and give due consider-
17 ation to the opinion of the Attorney General.

18 **SEC. ~~06~~ 06. LEASE TERMS AND CONDITIONS.**

19 (a) IN GENERAL.—An oil or gas lease issued pursu-
20 ant to this division shall—

21 (1) provide for the payment of a royalty of not
22 less than 12½ percent of the amount or value of the
23 production removed or sold from the lease, as deter-
24 mined by the Secretary in accordance with regula-
25 tions applicable to other Federal oil and gas leases;

Handwritten annotations: A large '5)' is written on the left margin, with a line extending from it to the left of line 3. A large '6)' is written on the left margin, with a line extending from it to the left of line 19. A '4' is written on the right margin, with a line extending from it to the right of line 7.

1 (2) provide that the Secretary may close, on a
2 seasonal basis, such portions of the Coastal Plain to
3 exploratory drilling activities as are necessary to
4 protect caribou calving areas and other species of
5 fish and wildlife;

6 (3) require that each lessee of land within the
7 Coastal Plain shall be fully responsible and liable for
8 the reclamation of land within the Coastal Plain and
9 any other Federal land that is adversely affected in
10 connection with exploration, development, produc-
11 tion, or transportation activities within the Coastal
12 Plain conducted by the lessee or by any of the sub-
13 contractors or agents of the lessee;

14 (4) provide that the lessee may not delegate or
15 convey, by contract or otherwise, that reclamation
16 responsibility and liability to another person without
17 the express written approval of the Secretary;

18 (5) provide that the standard of reclamation for
19 land required to be reclaimed under this division
20 shall be, to the maximum extent practicable—

21 (A) a condition capable of supporting the
22 uses that the land was capable of supporting
23 prior to any exploration, development, or pro-
24 duction activities; or

1 (B) upon application by the lessee, to a
2 higher or better standard, as approved by the
3 Secretary;

4 (6) contain terms and conditions relating to
5 protection of fish and wildlife, fish and wildlife habi-
6 tat, subsistence resources, and the environment as
7 required under section ~~03(a)(2);~~ (3)

8 (7) provide that each lessee, and each agent
9 and contractor of a lessee, use their best efforts to
10 provide a fair share of employment and contracting
11 for Alaska Natives and Alaska Native Corporations
12 from throughout the State of Alaska, as determined
13 by the level of obligation previously agreed to in the
14 Federal Agreement; and

15 (8) contain such other provisions as the Sec-
16 retary determines to be necessary to ensure compli-
17 ance with this division and regulations issued under
18 this division.

19 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
20 as a term and condition of each lease under this division,
21 and in recognizing the proprietary interest of the Federal
22 Government in labor stability and in the ability of con-
23 struction labor and management to meet the particular
24 needs and conditions of projects to be developed under the
25 leases issued pursuant to this division (including the spe-

1 cial concerns of the parties to those leases), shall require
2 that each lessee, and each agent and contractor of a lessee,
3 under this division negotiate to obtain a project labor
4 agreement for the employment of laborers and mechanics
5 on production, maintenance, and construction under the
6 lease.

7 **SEC. ~~02~~ COASTAL PLAIN ENVIRONMENTAL PROTEC-**
8 **TION.**

9 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
10 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

11 In accordance with section ~~03~~, the Secretary shall ad- (3)
12 minister this division through regulations, lease terms,
13 conditions, restrictions, prohibitions, stipulations, or other
14 provisions that—

15 (1) ensure, to the maximum extent practicable,
16 that oil and gas exploration, development, and pro-
17 duction activities on the Coastal Plain will result in
18 no significant adverse effect on fish and wildlife, fish
19 and wildlife habitat, and the environment;

20 (2) require the application of the best commer-
21 cially available technology for oil and gas explo-
22 ration, development, and production on all new ex-
23 ploration, development, and production operations;
24 and

1 (3) ensure that the maximum surface acreage
2 covered in connection with the leasing program by
3 production and support facilities, including airstrips
4 and any areas covered by gravel berms or piers for
5 support of pipelines, does not exceed 2,000 acres on
6 the Coastal Plain.

7 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

8 The Secretary shall require, with respect to any proposed
9 drilling and related activities on the Coastal Plain, that—

10 (1) a site-specific environmental analysis be
11 made of the probable effects, if any, that the drilling
12 or related activities will have on fish and wildlife,
13 fish and wildlife habitat, subsistence resources, sub-
14 sistence uses, and the environment;

15 (2) a plan be implemented to avoid, minimize,
16 and mitigate (in that order and to the maximum ex-
17 tent practicable) any significant adverse effect iden-
18 tified under paragraph (1); and

19 (3) the development of the plan occur after con-
20 sultation with—

21 (A) each agency having jurisdiction over
22 matters mitigated by the plan;

23 (B) the State of Alaska;

24 (C) North Slope Borough, Alaska; and

25 (D) the City of Kaktovik, Alaska.

1 (c) REGULATIONS TO PROTECT COASTAL PLAIN
2 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
3 AND THE ENVIRONMENT.—Before implementing the leas-
4 ing program authorized by this division, the Secretary
5 shall prepare and issue regulations, lease terms, condi-
6 tions, restrictions, prohibitions, stipulations, or other
7 measures designed to ensure, to the maximum extent prac-
8 ticable, that the activities carried out on the Coastal Plain
9 under this division are conducted in a manner consistent
10 with the purposes and environmental requirements of this
11 division.

12 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
13 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
14 proposed regulations, lease terms, conditions, restrictions,
15 prohibitions, and stipulations for the leasing program
16 under this division shall require—

17 (1) compliance with all applicable provisions of
18 Federal and State environmental law (including reg-
19 ulations);

20 (2) implementation of and compliance with—

21 (A) standards that are at least as effective
22 as the safety and environmental mitigation
23 measures, as described in items 1 through 29
24 on pages 167 through 169 of the Final State-
25 ment, on the Coastal Plain;

1 (B) seasonal limitations on exploration, de-
2 velopment, and related activities, as necessary,
3 to avoid significant adverse effects during peri-
4 ods of concentrated fish and wildlife breeding,
5 denning, nesting, spawning, and migration;

6 (C) design safety and construction stand-
7 ards for all pipelines and any access and service
8 roads that minimize, to the maximum extent
9 practicable, adverse effects on—

10 (i) the passage of migratory species
11 (such as caribou); and

12 (ii) the flow of surface water by re-
13 quiring the use of culverts, bridges, or
14 other structural devices;

15 (D) prohibitions on general public access
16 to, and use of, all pipeline access and service
17 roads;

18 (E) stringent reclamation and rehabilita-
19 tion requirements in accordance with this divi-
20 sion for the removal from the Coastal Plain of
21 all oil and gas development and production fa-
22 cilities, structures, and equipment on comple-
23 tion of oil and gas production operations, except
24 in a case in which the Secretary determines
25 that those facilities, structures, or equipment—

1 (i) would assist in the management of
2 the Arctic National Wildlife Refuge; and

3 (ii) are donated to the United States
4 for that purpose;

5 (F) appropriate prohibitions or restrictions
6 on—

7 (i) access by all modes of transpor-
8 tation;

9 (ii) sand and gravel extraction; and

10 (iii) use of explosives;

11 (G) reasonable stipulations for protection
12 of cultural and archaeological resources;

13 (H) measures to protect groundwater and
14 surface water, including—

15 (i) avoidance, to the maximum extent
16 practicable, of springs, streams, and river
17 systems;

18 (ii) the protection of natural surface
19 drainage patterns and wetland and ripar-
20 ian habitats; and

21 (iii) the regulation of methods or tech-
22 niques for developing or transporting ade-
23 quate supplies of water for exploratory
24 drilling; and

1 (I) research, monitoring, and reporting re-
2 quirements;

3 (3) that exploration activities (except surface
4 geological studies) be limited to the period between
5 approximately November 1 and May 1 of each year
6 and be supported, if necessary, by ice roads, winter
7 trails with adequate snow cover, ice pads, ice air-
8 strips, and air transport methods (except that those
9 exploration activities may be permitted at other
10 times if the Secretary determines that the explo-
11 ration will have no significant adverse effect on fish
12 and wildlife, fish and wildlife habitat, subsistence re-
13 sources, and the environment of the Coastal Plain);

14 (4) consolidation of facility siting;

15 (5) avoidance or reduction of air traffic-related
16 disturbance to fish and wildlife;

17 (6) treatment and disposal of hazardous and
18 toxic wastes, solid wastes, reserve pit fluids, drilling
19 muds and cuttings, and domestic wastewater, includ-
20 ing, in accordance with applicable Federal and State
21 environmental laws (including regulations)—

22 (A) preparation of an annual waste man-
23 agement report;

24 (B) development and implementation of a
25 hazardous materials tracking system; and

1 (C) prohibition on the use of chlorinated
2 solvents;

3 (7) fuel storage and oil spill contingency plan-
4 ning;

5 (8) conduct of periodic field crew environmental
6 briefings;

7 (9) avoidance of significant adverse effects on
8 subsistence hunting, fishing, and trapping;

9 (10) compliance with applicable air and water
10 quality standards;

11 (11) appropriate seasonal and safety zone des-
12 ignations around well sites, within which subsistence
13 hunting and trapping shall be limited; and

14 (12) development and implementation of such
15 other protective environmental requirements, restric-
16 tions, terms, or conditions as the Secretary, after
17 consultation with the State of Alaska, North Slope
18 Borough, Alaska, and the City of Kaktovik, Alaska,
19 determines to be necessary.

20 (e) CONSIDERATIONS.—In preparing and issuing reg-
21 ulations, lease terms, conditions, restrictions, prohibitions,
22 or stipulations under this section, the Secretary shall take
23 into consideration—

24 (1) the stipulations and conditions that govern
25 the National Petroleum Reserve-Alaska leasing pro-

1 gram, as set forth in the 1999 Northeast National
2 Petroleum Reserve-Alaska Final Integrated Activity
3 Plan/Environmental Impact Statement;

4 (2) the environmental protection standards that
5 governed the initial Coastal Plain seismic exploration
6 program under parts 37.31 through 37.33 of title
7 50, Code of Federal Regulations (or successor regu-
8 lations); and

9 (3) the land use stipulations for exploratory
10 drilling on the KIC-ASRC private land described in
11 Appendix 2 of the agreement between Arctic Slope
12 Regional Corporation and the United States dated
13 August 9, 1983.

14 (f) FACILITY CONSOLIDATION PLANNING.—

15 (1) IN GENERAL.—After providing for public
16 notice and comment, the Secretary shall prepare and
17 periodically update a plan to govern, guide, and di-
18 rect the siting and construction of facilities for the
19 exploration, development, production, and transpor-
20 tation of oil and gas resources from the Coastal
21 Plain.

22 (2) OBJECTIVES.—The objectives of the plan
23 shall be—

24 (A) the avoidance of unnecessary duplica-
25 tion of facilities and activities;

1 (B) the encouragement of consolidation of
2 common facilities and activities;

3 (C) the location or confinement of facilities
4 and activities to areas that will minimize impact
5 on fish and wildlife, fish and wildlife habitat,
6 subsistence resources, and the environment;

7 (D) the use of existing facilities, to the
8 maximum extent practicable; and

9 (E) the enhancement of compatibility be-
10 tween wildlife values and development activities.

11 (g) ACCESS TO PUBLIC LAND.—The Secretary
12 shall—

13 (1) manage public land in the Coastal Plain in
14 accordance with subsections (a) and (b) of section
15 811 of the Alaska National Interest Lands Con-
16 servation Act (16 U.S.C. 3121); and

17 (2) ensure that local residents shall have rea-
18 sonable access to public land in the Coastal Plain for
19 traditional uses.

20 **SEC. 908. EXPEDITED JUDICIAL REVIEW.**

21 (a) FILING OF COMPLAINTS.—

22 (1) DEADLINE.—A complaint seeking judicial
23 review of a provision of this division or an action of
24 the Secretary under this division shall be filed—

81

1 (A) except as provided in subparagraph
2 (B), during the 90-day period beginning on the
3 date on which the action being challenged was
4 carried out; or

5 (B) in the case of a complaint based solely
6 on grounds arising after the 90-day period de-
7 scribed in subparagraph (A), by not later than
8 90 days after the date on which the complain-
9 ant knew or reasonably should have known
10 about the grounds for the complaint.

11 (2) VENUE.—A complaint seeking judicial re-
12 view of a provision of this division or an action of
13 the Secretary under this division shall be filed in the
14 United States Court of Appeals for the District of
15 Columbia.

16 (3) SCOPE.—

17 (A) IN GENERAL.—Judicial review of a de-
18 cision of the Secretary under this division (in-
19 cluding an environmental analysis of such a
20 lease sale) shall be—

21 (i) limited to a review of whether the
22 decision is in accordance with this division;
23 and
24 (ii) based on the administrative record
25 of the decision.

1 (B) PRESUMPTIONS.—Any identification
2 by the Secretary of a preferred course of action
3 relating to a lease sale, and any analysis by the
4 Secretary of environmental effects, under this
5 division shall be presumed to be correct unless
6 proven otherwise by clear and convincing evi-
7 dence.

8 (b) LIMITATION ON OTHER REVIEW.—Any action of
9 the Secretary that is subject to judicial review under this
10 section shall not be subject to judicial review in any civil
11 or criminal proceeding for enforcement.

12 SEC. ~~09~~ RIGHTS-OF-WAY AND EASEMENTS ACROSS
13 COASTAL PLAIN.

9)
14 For purposes of section 1102(4)(A) of the Alaska Na-
15 tional Interest Lands Conservation Act (16 U.S.C.
16 3162(4)(A)), any rights-of-way or easements across the
17 Coastal Plain for the exploration, development, produc-
18 tion, or transportation of oil and gas shall be considered
19 to be established incident to the management of the Coast-
20 al Plain under this section.

21 SEC. ~~10~~ CONVEYANCE.

10)
22 Notwithstanding section 1302(h)(2) of the Alaska
23 National Interest Lands Conservation Act (16 U.S.C.
24 3192(h)(2)), to remove any cloud on title to land, and to

1 clarify land ownership patterns in the Coastal Plain, the
2 Secretary shall—

3 (1) to the extent necessary to fulfill the entitle-
4 ment of the Kaktovik Inupiat Corporation under sec-
5 tions 12 and 14 of the Alaska Native Claims Settle-
6 ment Act (43 U.S.C. 1611, 1613), as determined by
7 the Secretary, convey to that Corporation the sur-
8 face estate of the land described in paragraph (1) of
9 Public Land Order 6959, in accordance with the
10 terms and conditions of the agreement between the
11 Secretary, the United States Fish and Wildlife Serv-
12 ice, the Bureau of Land Management, and the
13 Kaktovik Inupiat Corporation, dated January 22,
14 1993; and

15 (2) convey to the Arctic Slope Regional Cor-
16 poration the remaining subsurface estate to which
17 that Corporation is entitled under the agreement be-
18 tween that corporation and the United States, dated
19 August 9, 1983.

20 SEC. ~~21~~ LOCAL GOVERNMENT IMPACT AID AND COM-
21 MUNITY SERVICE ASSISTANCE.

22 (a) ESTABLISHMENT OF FUND.—

23 (1) IN GENERAL.—As a condition on the receipt
24 of funds under section ~~9~~ 01(a) of division D, the
25 State of Alaska shall establish in the treasury of the

11)

(1)

1 State, and administer in accordance with this sec-
2 tion, a fund to be known as the "Coastal Plain
3 Local Government Impact Aid Assistance Fund"
4 (referred to in this section as the "Fund").

5 (2) DEPOSITS.—Subject to paragraph (1), the
6 Secretary of the Treasury shall deposit into the
7 Fund, in accordance with section ~~01~~(a)(2) of di- *e/1*
8 vision D, \$35,000,000 each year from adjusted
9 bonus, rental, and royalty revenues from oil and gas
10 leasing and operations under this division.

11 (3) INVESTMENT.—The Governor of the State
12 of Alaska (referred to in this section as the "Gov-
13 ernor") shall invest amounts in the Fund in interest-
14 bearing securities of the United States or the State
15 of Alaska.

16 (b) ASSISTANCE.—The Governor, in cooperation with
17 the Mayor of the North Slope Borough, shall use amounts
18 in the Fund to provide assistance to North Slope Borough,
19 Alaska, the City of Kaktovik, Alaska, and any other bor-
20 ough, municipal subdivision, village, or other community
21 in the State of Alaska that is directly impacted by explo-
22 ration for, or the production of, oil or gas on the Coastal
23 Plain under this division, or any Alaska Native Regional
24 Corporation acting on behalf of the villages and commu-
25 nities within its region whose lands lie along the right of

1 way of the Trans Alaska Pipeline System, as determined
2 by the Governor.

3 (c) APPLICATION.—

4 (1) IN GENERAL.—To receive assistance under
5 subsection (b), a community or Regional Corporation
6 described in that subsection shall submit to the Gov-
7 ernor, or to the Mayor of the North Slope Borough,
8 an application in such time, in such manner, and
9 containing such information as the Governor may re-
10 quire.

11 (2) ACTION BY NORTH SLOPE BOROUGH.—The
12 Mayor of the North Slope Borough shall submit to
13 the Governor each application received under para-
14 graph (1) as soon as practicable after the date on
15 which the application is received.

16 (3) ASSISTANCE OF GOVERNOR.—The Governor
17 shall assist communities in submitting applications
18 under this subsection, to the maximum extent prac-
19 ticable.

20 (d) USE OF FUNDS.—A community or Regional Cor-
21 poration that receives funds under subsection (b) may use
22 the funds—

23 (1) to plan for mitigation, implement a mitiga-
24 tion plan, or maintain a mitigation project to ad-
25 dress the potential effects of oil and gas exploration

1 and development on environmental, social, cultural,
2 recreational, and subsistence resources of the com-
3 munity;

4 (2) to develop, carry out, and maintain—

5 (A) a project to provide new or expanded
6 public facilities; or

7 (B) services to address the needs and prob-
8 lems associated with the effects described in
9 paragraph (1), including firefighting, police,
10 water and waste treatment, first responder, and
11 other medical services;

12 (3) to compensate residents of the Coastal
13 Plain for significant damage to environmental, so-
14 cial, cultural, recreational, or subsistence resources;
15 and

16 (4) in the City of Kaktovik, Alaska—

17 (A) to develop a mechanism for providing
18 members of the Kaktovikmiut Inupiat commu-
19 nity an opportunity to—

20 (i) monitor development on the Coast-
21 al Plain; and

22 (ii) provide information and rec-
23 ommendations to the Governor based on
24 traditional aboriginal knowledge of the nat-

1 ural resources, flora, fauna, and ecological
2 processes of the Coastal Plain; and

3 (B) to establish a local coordination office,
4 to be managed by the Mayor of the North Slope
5 Borough, in coordination with the City of
6 Kaktovik, Alaska—

7 (i) to coordinate with and advise de-
8 velopers on local conditions and the history
9 of areas affected by development;

10 (ii) to provide to the Committee on
11 Resources of the House of Representatives
12 and the Committee on Energy and Natural
13 Resources of the Senate annual reports on
14 the status of the coordination between de-
15 velopers and communities affected by de-
16 velopment;

17 (iii) to collect from residents of the
18 Coastal Plain information regarding the
19 impacts of development on fish, wildlife,
20 habitats, subsistence resources, and the en-
21 vironment of the Coastal Plain; and

22 (iv) to ensure that the information
23 collected under clause (iii) is submitted
24 to—

25 (I) developers; and

1 (II) any appropriate Federal
2 agency.

3 ~~SEC. 13.~~ **PROHIBITION ON EXPORTS.**

12)

4 An oil or gas lease issued under this division shall
5 prohibit the exportation of oil or gas produced under the
6 lease.

7 ~~SEC. 13.~~ **LEGISLATIVE PROCEDURE.**

13)

8 Effective immediately, the Presiding Officer shall
9 apply all of the precedents of the Senate under Rule
10 XXVIII in effect at the beginning of the 109th Congress.

11 ~~SEC. 14.~~ **SEVERABILITY.**

14)

12 If any provision of this division or division D, or the
13 application of such provision to any person or cir-
14 cumstance, is held to be unconstitutional, the remainder
15 of this division and division D and the application of such
16 provisions to any person or circumstance shall not be af-
17 fected thereby.

18 **DIVISION D—DISTRIBUTION OF**
19 **REVENUES AND DISASTER AS-**
20 **SISTANCE**

21 ~~SEC. 101.~~ **FEDERAL AND STATE DISTRIBUTION OF REVE-**
22 **NUES.**

1)

23 (a) RECEIPTS.—Subject to section ~~11~~(a)(1) of
24 division C and notwithstanding any other provision of
25 law—

11

1 (1) 50 percent of the amount of adjusted bonus,
2 rental, and royalty receipts from Federal oil and gas
3 leasing and operations authorized under division C
4 shall be deposited in the Treasury as miscellaneous
5 receipts, in accordance with subsection (b), of which
6 5 percent shall be appropriated to the Department
7 of Health and Human Services to make payments
8 under title XXVI of the Omnibus Budget Reconcili-
9 ation Act of 1981 (42 U.S.C. 8621); and

10 (2) 50 percent of the amount of adjusted bonus,
11 rental, and royalty receipts derived from Federal oil
12 and gas leasing and operations authorized under di-
13 vision C shall be paid to the State of Alaska, of
14 which \$35,000,000 per year shall be deposited by
15 the Secretary of the Treasury into the fund created
16 under section 11(a)(1) of division C.

17 (b) GULF COAST RECOVERY AND DISASTER PREVEN-
18 TION AND ASSISTANCE FUND.—

19 (1) IN GENERAL.—There is established in the
20 Treasury of the United States a revolving fund, to
21 be known as the “Gulf Coast Recovery and Disaster
22 Prevention and Assistance Fund” (referred to in
23 this section as the “Gulf Fund”), consisting of—

24 (A) such amounts as are appropriated to
25 the Gulf Fund under paragraph (2); and

1 (B) any interest earned on investment of
2 amounts in the Gulf Fund under paragraph (5).

3 (2) TRANSFERS TO GULF FUND.—

4 (A) BONUS BIDS, RENTALS, AND ROYALTY
5 REVENUES.—From amounts collected from oil
6 and gas leasing and operations under this sec-
7 tion and received in the Treasury, there are ap-
8 propriated to the Gulf Fund an amount equal
9 to the sum of—

10 (i) 80 percent of the amount of ad-
11 justed bonus bids and rentals described in
12 subsection (a)(1); and

13 (ii) 20 percent of royalty revenues de-
14 scribed in subsection (a)(1).

15 (B) DIGITAL TRANSITION AND PUBLIC
16 SAFETY FUND.—Amounts deposited in the Dig-
17 ital Transition and Public Safety Fund that ex-
18 ceed \$10,000,000,000, up to a total of
19 \$2,000,000,000, are appropriated to the Gulf
20 Fund to be made available, without further ap-
21 propriation, as provided in this section.

22 (3) EXPENDITURES FROM GULF FUND.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the Secretary of the Treasury shall
25 transfer from the Gulf Fund direct lump sum

1 payments to State and local governments that
2 were directly affected by Hurricane Katrina,
3 Rita, or Wilma.

4 (B) ALLOCATION OF PAYMENTS.—Pay-
5 ments described in subparagraph (A) shall be
6 allocated—

7 (i) 50 percent to the State of Lou-
8 isiana for hurricane and flood protection
9 and control, coastal restoration projects,
10 levies, and the construction and improve-
11 ment of emergency evacuation routes in
12 south Louisiana;

13 (ii) 25 percent to the State of Mis-
14 sissippi, of which 10 percent shall be pro-
15 vided to Hancock County, 10 percent shall
16 be provided to Harrison County, 10 per-
17 cent shall be provided to Jackson County,
18 and 30 percent shall be allocated to mu-
19 nicipalities within those counties based on
20 the proportion of the population of each
21 municipality to the total population of all
22 such municipalities, to—

23 (I) restore coastal estuaries and
24 fisheries habitats;

- 1 (II) restore or expand barrier is-
2 lands to provide coastal hurricane pro-
3 tection;
- 4 (III) restore or construct coastal
5 shoreline and flood protection struc-
6 tures;
- 7 (IV) repair and upgrade water
8 and wastewater systems;
- 9 (V) restore and expand hurricane
10 evacuation transportation routes and
11 services;
- 12 (VI) restore storm-damaged pub-
13 lic buildings and facilities, including
14 waterfront facilities, not otherwise
15 paid for by the Federal Government;
16 and
- 17 (VII) pay or reimburse the costs
18 of storm debris removal not otherwise
19 paid by the Federal Government.
- 20 (iii) 10 percent to the State of Texas
21 for hurricane relief and recovery efforts,
22 including—
- 23 (I) storm debris removal costs
24 not otherwise paid by the Federal
25 Government;

- 1 (II) low-income housing needs;
- 2 (III) the cost of providing un-
- 3 compensated medical care to hurri-
- 4 cane victims; and
- 5 (IV) education-related expenses,
- 6 including expenses for K-12 and high-
- 7 er education;
- 8 (iv) 10 percent to the State of Ala-
- 9 bama for recovery and restoration activi-
- 10 ties; and
- 11 (v) 5 percent to the State of Florida
- 12 for restoration and recovery activities.

13 (4) LOAN AUTHORITY.—The Secretary of the

14 Treasury ~~shall~~ borrow from the Treasury such sums

15 as may be necessary to carry out this subsection, but

16 shall reimburse the Treasury immediately when

17 funds are deposited into the Gulf Fund.

18 (5) INVESTMENT OF AMOUNTS.—

19 (A) IN GENERAL.—The Secretary of the

20 Treasury shall invest such portion of the Gulf

21 Fund as is not, in the judgment of the Sec-

22 retary of the Treasury, required to meet cur-

23 rent withdrawals.

may

1 (B) INTEREST-BEARING OBLIGATIONS.—

2 Investments may be made only in interest-bear-
3 ing obligations of the United States.

4 (C) ACQUISITION OF OBLIGATIONS.—For
5 the purpose of investments under clause (i), ob-
6 ligations may be acquired—

7 (i) on original issue at the issue price;

8 or

9 (ii) by purchase of outstanding obliga-
10 tions at the market price.

11 (D) SALE OF OBLIGATIONS.—Any obliga-
12 tion acquired by the Gulf Fund may be sold by
13 the Secretary of the Treasury at the market
14 price.

15 (E) CREDITS TO GULF FUND.—The inter-
16 est on, and the proceeds from the sale or re-
17 demption of, any obligations held in the Gulf
18 Fund shall be credited to and form a part of
19 the Gulf Fund.

20 ~~SEC. 02. LOW-INCOME HOME ENERGY ASSISTANCE.~~

21 (a) IN GENERAL.—Subject to subsection (b), there
22 is appropriated, out of any funds in the Treasury not oth-
23 erwise appropriated, ~~an additional \$2,000,000,000 to the~~
24 Administration for Children and Families, to remain avail-
25 able until expended, for making payments under title

For the fiscal
year ending
September 30, 2006,

1 XXVI of the Omnibus Budget Reconciliation Act of 1981
2 (42 U.S.C. 8621 et seq.).

3 (b) REQUIREMENT.—Notwithstanding section
4 2602(e) of the Omnibus Budget Reconciliation Act of
5 1981 (42 U.S.C. 8621(e)), of funds appropriated under
6 subsection (a), \$1,500,000,000 shall be used for the unan-
7 ticipated home energy assistance needs of 1 or more
8 States, as authorized by section 2604(e) of the Omnibus
9 Budget Reconciliation Act of 1981 (42 U.S.C. 8623(e)).

10 (c) EMERGENCY DESIGNATION.—The amounts made
11 available by the transfer of funds in or pursuant to this
12 section are designated as an emergency requirement pur-
13 suant to section 402 of H. Con. Res. 95 (109th Congress).

14 **SEC. 03. ASSISTANCE FROM DIGITAL TRANSITION AND**
15 **PUBLIC SAFETY FUND.**

3)
16 (a) IN GENERAL.—Subject to subsection (f), in addi-
17 tion to any amounts otherwise provided in this or any
18 other Act, amounts from the Digital Transition and Public
19 Safety Fund in excess of \$12,000,000,000 are appro-
20 priated, to remain available until expended, to be made
21 available by the Secretary of the Treasury, without further
22 appropriation, to carry out this section.

23 (b) AGRICULTURAL ASSISTANCE.—Notwithstanding
24 any other provision of law, of the amount made available
25 under subsection (a), \$900,000,000 shall be made avail-

1 able to the Secretary of Agriculture to increase enrollment
2 in conservation programs, including—

3 (1) the conservation reserve program estab-
4 lished under subchapter B of chapter 1 of subtitle
5 D of title XII of the Food Security Act of 1985 (16
6 U.S.C. 3831 et seq.);

7 (2) the wetlands reserve program established
8 under subchapter C of chapter 1 of subtitle D of
9 title XII of that Act (16 U.S.C. 3837 et seq.);

10 (3) the conservation security program estab-
11 lished under subchapter A of chapter 2 of subtitle D
12 of title XII of that Act (16 U.S.C. 3838 et seq.);

13 (4) the grassland reserve program established
14 under subchapter C of chapter 2 of subtitle D of
15 title XII of that Act (16 U.S.C. 3838n et seq.); and

16 (5) the environmental quality incentives pro-
17 gram established under chapter 4 of subtitle D of
18 title XII of that Act (16 U.S.C. 3839aa et seq.).

19 (c) OTHER CONSERVATION PROGRAMS.—Of the
20 amounts made available under subsection (a),
21 \$100,000,000 shall be used to carry out other conserva-
22 tion programs, including—

23 (1) \$50,000,000 shall be used for expenses nec-
24 essary to carry out the North American Wetlands
25 Conservation Act (16 U.S.C. 4401 et seq.); and

1 (2) \$50,000,000 shall be provided to the Na-
2 tional Fish and Wildlife Service to acquire perma-
3 nent conservation easements from willing sellers for
4 the National Wildlife Refuge System to protect crit-
5 ical grassland and wetland habitats.

6 (d) PREPARATION FOR A NATURAL DISASTER OR
7 TERRORIST ATTACK.—

8 (1) IN GENERAL.—Of the amount made avail-
9 able under subsection (a), \$2,000,000,000 shall be
10 used for State and local government preparation for
11 a natural disaster or terrorist attack, of which—

12 (A) \$1,000,000,000 shall be used to carry
13 out paragraph (2); and

14 (B) \$1,000,000,000 shall be used to carry
15 out paragraph (3).

16 (2) INTEROPERABLE COMMUNICATIONS EQUIP-
17 MENT.—

18 (A) IN GENERAL.—The amount made
19 available under paragraph (1)(A) shall be pro-
20 vided to the Department of Homeland Security,
21 Office for Domestic Preparedness, State and
22 Local Programs, to make grants to State and
23 local governments for interoperable communica-
24 tions equipment, of which—

1 (i) at least 75 percent shall be allo-
2 cated based on risk and threat, as deter-
3 mined by the Secretary of Homeland Secu-
4 rity; and

5 (ii) the remainder shall be allocated
6 equally to all States for compatible emer-
7 gency communications equipment (which
8 may include equipment) with satellite ca-
9 pability operable in the event that towers,
10 central offices, or other critical infrastruc-
11 ture such as power facilities are destroyed
12 or disrupted.

13 (B) PLAN.—No funds may be obligated
14 under this paragraph until the grantee has in
15 place an interoperable communications imple-
16 mentation plan certified by the Department of
17 Homeland Security.

18 (C) STANDARDS OR GUIDELINES.—Any
19 communications equipment acquired under this
20 paragraph shall meet standards or guidelines
21 established by the Department of Homeland Se-
22 curity Office of Interoperable Communications.

23 (D) SALARIES AND EXPENSES.—Of the
24 amount made available under this paragraph,
25 not more than 3 percent may be used by the

1 Secretary of Homeland Security for salaries
2 and administrative expenses.

3 (3) PREPARATION FOR TERRORIST ATTACKS,
4 PANDEMIC EVENTS, OR NATURAL DISASTERS.—

5 (A) IN GENERAL.—The amount made
6 available under paragraph (1)(B) shall be pro-
7 vided to the Department of Homeland Security,
8 Office for Domestic Preparedness, State and
9 Local Programs, to make grants to prepare for
10 a terrorist attack, pandemic event, or natural
11 disaster, including—

12 (i) developing evacuation plans and
13 plans to accept and provide for evacuees
14 from other jurisdictions;

15 (ii) providing training for the imple-
16 mentation of, and exercises under, those
17 plans;

18 (iii) acquisition of equipment and
19 medical supplies; and

20 (iv) related costs.

21 (B) ALLOCATION.—Funds provided under
22 this paragraph shall be allocated based on risk
23 and threat, as determined by the Secretary of
24 Homeland Security, except that no State shall
25 receive less than 0.55 percent and no territory

1 shall receive no less than 0.15 of the total
2 amount provided under this paragraph.

3 (C) AVAILABILITY OF APPLICATIONS.—Not
4 later than 60 days after the date of enactment
5 of this Act, the Secretary of Homeland Security
6 shall make applications for grants under this
7 paragraph available to States.

8 (D) SUBMISSION OF APPLICATIONS.—To
9 be eligible for a grant under this paragraph, a
10 State shall submit an application for the grant
11 within 90 days after the announcement of grant
12 availability.

13 (E) ACTION ON APPLICATIONS.—The Of-
14 fice for Domestic Preparedness shall act on an
15 application within 90 days after receipt of the
16 application.

17 (F) LOCAL GOVERNMENTS.—Not less than
18 80 percent of any grant under this paragraph
19 to a State shall be made available by the State
20 to local governments within 60 days after the
21 receipt of funds.

22 (G) SALARIES AND EXPENSES.—Of the
23 amount made available under this paragraph,
24 not more than 3 percent may be used by the

1 Secretary of Homeland Security for salaries
2 and administrative expenses.

3 (e) BORDER SECURITY; DEPARTMENT OF HOME-
4 LAND SECURITY.—

5 (1) OFFICE OF THE CHIEF INFORMATION OFFI-
6 CER.—There is appropriated, out of any funds in
7 the Treasury not otherwise appropriated, an addi-
8 tional \$80,000,000 to the Department of Homeland
9 Security, Office of the Chief Information Officer, to
10 replace and upgrade law enforcement communica-
11 tions, \$80,000,000, to remain available until ex-
12 pended.

*for the fiscal
year ending
September 30, 2010,*

13 (2) CUSTOMS AND BORDER PROTECTION.—

14 (A) SALARIES AND EXPENSES.—There is
15 appropriated, out of any funds in the Treasury
16 not otherwise appropriated, an additional
17 \$30,000,000 for “Customs and Border Protec-
18 tion”, “Salaries and Expenses”, to replace bor-
19 der patrol vehicles.

*for the fiscal
year ending
September 30, 2010,*

20 (B) AIR AND MARINE INTERDICTION, OP-
21 ERATIONS, MAINTENANCE, AND PROCURE-
22 MENT.—

23 (i) IN GENERAL.—There is appro-
24 priated, out of any funds in the Treasury
25 not otherwise appropriated, an additional

*for the fiscal
year ending
September 30, 2010,*

1 \$862,000,000 for "Air and Marine Inter-
2 diction, Operations, Maintenance, and Pro-
3 curement" to replace air assets facilities,
4 to remain available until expended, of
5 which—

6 (I) \$490,000,000 shall be used to
7 replace air assets, including
8 \$40,000,000 for helicopter replace-
9 ment; and

10 (II) \$372,000,000 shall be used
11 to construct and renovate air facili-
12 ties.

13 (ii) PLAN.—None of the funds made
14 available under this subparagraph may be
15 obligated until the Committees on Appro-
16 priations of the Senate and the House of
17 Representatives receive and approve an ex-
18 penditure plan for the funds and for the
19 complete recapitalization of Customs and
20 Border Protection air assets and facilities.

21 (C) CONSTRUCTION.—

22 (i) IN GENERAL.—There is appro-
23 priated, out of any funds in the Treasury
24 not otherwise appropriated, an additional

For the fiscal
year ending
September 30, 2006,

1 \$120,000,000 for "Construction", to re-
2 main available until expended, of which—

3 (I) \$30,000,000 shall be used for
4 Tucson, Arizona sector tactical infra-
5 structure; and

6 (II) \$20,000,000 shall be used
7 for the San Diego, California sector
8 fence.

9 (ii) PLAN.—None of the funds made
10 available under this subparagraph may be
11 obligated until the Committees on Appro-
12 priations of the Senate and the House of
13 Representatives receive and approve an ex-
14 penditure plan for the funds.

15 (3) IMMIGRATION AND CUSTOMS ENFORCE-
16 MENT.—There is appropriated, out of any funds in
17 the Treasury not otherwise appropriated, an addi-
18 tional \$30,000,000 for "Salaries and Expenses" to
19 replace detention and removal vehicles.

*for the fiscal
year ending
September 30, 2006,*

20 (4) FEDERAL LAW ENFORCEMENT TRAINING
21 CENTER.—There is appropriated, out of any funds
22 in the Treasury not otherwise appropriated, an addi-
23 tional \$17,900,000 for "Acquisition, Construction,
24 Improvements, and Related Expenses" for construc-
25 tion of the language training facility referenced in

*for the fiscal
year ending
September 30, 2006,*

1 the Master Plan and for information technology in-
2 frastructure improvements, to remain available until
3 expended.

4 (5) EMERGENCY DESIGNATION.—The amount
5 provided under this subsection ~~is~~ designated as an
6 emergency requirement pursuant to section 402 of
7 H. Con. Res. 95 (109th Congress).

8 (6) OFFSETTING RECEIPTS.—If any amount re-
9 main, in the Digital Transition and Public Safety
10 Fund after implementation of this section,
11 \$1,139,000,000 of the amount shall be deposited in
12 the Treasury as offsetting receipts.

13 (f) INSUFFICIENT FUNDS.—If the amount of funds
14 made available under subsection (a) is not sufficient to
15 carry out subsections (b) through (d), each amount of
16 funds otherwise made available under subsections (b)
17 through (d) shall be reduced on a pro rata basis.

1 **DIVISION E—PUBLIC READI-**
2 **NESS AND EMERGENCY PRE-**
3 **PAREDNESS ACT**

4 **SEC. 1. SHORT TITLE.**

5 This division may be cited as the “Public Readiness
6 and Emergency Preparedness Act”.

7 **SEC. 2. TARGETED LIABILITY PROTECTIONS FOR PAN-**
8 **DEMIC AND EPIDEMIC PRODUCTS AND SECU-**
9 **RITY COUNTERMEASURES.**

10 Part B of title III of the Public Health Service Act
11 (42 U.S.C. 243 et seq.) is amended by inserting after sec-
12 tion 319F-2 the following section:

13 **“SEC. 319F-3. TARGETED LIABILITY PROTECTIONS FOR**
14 **PANDEMIC AND EPIDEMIC PRODUCTS AND**
15 **SECURITY COUNTERMEASURES.**

16 **“(a) LIABILITY PROTECTIONS.—**

17 **“(1) IN GENERAL.—**Subject to the other provi-
18 sions of this section, a covered person shall be im-
19 mune from suit and liability under Federal and
20 State law with respect to all claims for loss caused
21 by, arising out of, relating to, or resulting from the
22 administration to or the use by an individual of a
23 covered countermeasure if a declaration under sub-



1 section (b) has been issued with respect to such
2 countermeasure.

3 “(2) SCOPE OF CLAIMS FOR LOSS.—

4 “(A) LOSS.—For purposes of this section,
5 the term ‘loss’ means any type of loss,
6 including—

7 “(i) death;

8 “(ii) physical, mental, or emotional in-
9 jury, illness, disability, or condition;

10 “(iii) fear of physical, mental, or emo-
11 tional injury, illness, disability, or condi-
12 tion, including any need for medical moni-
13 toring; and

14 “(iv) loss of or damage to property,
15 including business interruption loss.

16 Each of clauses (i) through (iv) applies without
17 regard to the date of the occurrence, presen-
18 tation, or discovery of the loss described in the
19 clause.

20 “(B) SCOPE.—The immunity under para-
21 graph (1) applies to any claim for loss that has
22 a causal relationship with the administration to
23 or use by an individual of a covered counter-
24 measure, including a causal relationship with
25 the design, development, clinical testing or in-



1 vestigation, manufacture, labeling, distribution,
2 formulation, packaging, marketing, promotion,
3 sale, purchase, donation, dispensing, pre-
4 scribing, administration, licensing, or use of
5 such countermeasure.

6 “(3) CERTAIN CONDITIONS.—Subject to the
7 other provisions of this section, immunity under
8 paragraph (1) with respect to a covered counter-
9 measure applies only if—

10 “(A) the countermeasure was administered
11 or used during the effective period of the dec-
12 laration that was issued under subsection (b)
13 with respect to the countermeasure;

14 “(B) the countermeasure was administered
15 or used for the category or categories of dis-
16 eases, health conditions, or threats to health
17 specified in the declaration; and

18 “(C) in addition, in the case of a covered
19 person who is a program planner or qualified
20 person with respect to the administration or use
21 of the countermeasure, the countermeasure was
22 administered to or used by an individual who—

23 “(i) was in a population specified by
24 the declaration; and



1 “(ii) was at the time of administration
2 physically present in a geographic area
3 specified by the declaration or had a con-
4 nection to such area specified in the dec-
5 laration.

6 “(4) APPLICABILITY OF CERTAIN CONDI-
7 TIONS.—With respect to immunity under paragraph
8 (1) and subject to the other provisions of this sec-
9 tion:

10 “(A) In the case of a covered person who
11 is a manufacturer or distributor of the covered
12 countermeasure involved, the immunity applies
13 without regard to whether such countermeasure
14 was administered to or used by an individual in
15 accordance with the conditions described in
16 paragraph (3)(C).

17 “(B) In the case of a covered person who
18 is a program planner or qualified person with
19 respect to the administration or use of the cov-
20 ered countermeasure, the scope of immunity in-
21 cludes circumstances in which the counter-
22 measure was administered to or used by an in-
23 dividual in circumstances in which the covered
24 person reasonably could have believed that the
25 countermeasure was administered or used in ac-



1 cordance with the conditions described in para-
2 graph (3)(C).

3 “(5) EFFECT OF DISTRIBUTION METHOD.—The
4 provisions of this section apply to a covered counter-
5 measure regardless of whether such countermeasure
6 is obtained by donation, commercial sale, or any
7 other means of distribution, except to the extent
8 that, under paragraph (2)(E) of subsection (b), the
9 declaration under such subsection provides that sub-
10 section (a) applies only to covered countermeasures
11 obtained through a particular means of distribution.

12 “(6) REBUTTABLE PRESUMPTION.—For pur-
13 poses of paragraph (1), there shall be a rebuttable
14 presumption that any administration or use, during
15 the effective period of the emergency declaration by
16 the Secretary under subsection (b), of a covered
17 countermeasure shall have been for the category or
18 categories of diseases, health conditions, or threats
19 to health with respect to which such declaration was
20 issued.

21 “(b) DECLARATION BY SECRETARY.—

22 “(1) AUTHORITY TO ISSUE DECLARATION.—
23 Subject to paragraph (2), if the Secretary makes a
24 determination that a disease or other health condi-
25 tion or other threat to health constitutes a public



1 health emergency, or that there is a credible risk
2 that the disease, condition, or threat may in the fu-
3 ture constitute such an emergency, the Secretary
4 may make a declaration, through publication in the
5 Federal Register, recommending, under conditions
6 as the Secretary may specify, the manufacture, test-
7 ing, development, distribution, administration, or use
8 of one or more covered countermeasures, and stating
9 that subsection (a) is in effect with respect to the
10 activities so recommended.

11 “(2) CONTENTS.—In issuing a declaration
12 under paragraph (1), the Secretary shall identify,
13 for each covered countermeasure specified in the
14 declaration—

15 “(A) the category or categories of diseases,
16 health conditions, or threats to health for which
17 the Secretary recommends the administration
18 or use of the countermeasure;

19 “(B) the period or periods during which,
20 including as modified by paragraph (3), sub-
21 section (a) is in effect, which period or periods
22 may be designated by dates, or by milestones or
23 other description of events, including factors
24 specified in paragraph (6);



1 “(C) the population or populations of indi-
2 viduals for which subsection (a) is in effect with
3 respect to the administration or use of the
4 countermeasure (which may be a specification
5 that such subsection applies without geographic
6 limitation to all individuals);

7 “(D) the geographic area or areas for
8 which subsection (a) is in effect with respect to
9 the administration or use of the countermeasure
10 (which may be a specification that such sub-
11 section applies without geographic limitation),
12 including, with respect to individuals in the
13 populations identified under subparagraph (C),
14 a specification, as determined appropriate by
15 the Secretary, of whether the declaration ap-
16 plies only to individuals physically present in
17 such areas or whether in addition the declara-
18 tion applies to individuals who have a connec-
19 tion to such areas, which connection is de-
20 scribed in the declaration; and

21 “(E) whether subsection (a) is effective
22 only to a particular means of distribution as
23 provided in subsection (a)(5) for obtaining the
24 countermeasure, and if so, the particular means
25 to which such subsection is effective.



1 “(3) EFFECTIVE PERIOD OF DECLARATION.—

2 “(A) FLEXIBILITY OF PERIOD.—The Sec-
3 retary may, in describing periods under para-
4 graph (2)(B), have different periods for dif-
5 ferent covered persons to address different
6 logistical, practical or other differences in re-
7 sponsibilities.

8 “(B) ADDITIONAL TIME TO BE SPECI-
9 FIED.—In each declaration under paragraph
10 (1), the Secretary, after consulting, to the ex-
11 tent the Secretary deems appropriate, with the
12 manufacturer of the covered countermeasure,
13 shall also specify a date that is after the ending
14 date specified under paragraph (2)(B) and that
15 allows what the Secretary determines is—

16 “(i) a reasonable period for the manu-
17 facturer to arrange for disposition of the
18 covered countermeasure, including the re-
19 turn of such product to the manufacturer;
20 and

21 “(ii) a reasonable period for covered
22 persons to take such other actions as may
23 be appropriate to limit administration or
24 use of the covered countermeasure.



1 “(C) ADDITIONAL PERIOD FOR CERTAIN
2 STRATEGIC NATIONAL STOCKPILE COUNTER-
3 MEASURES.—With respect to a covered counter-
4 measure that is in the stockpile under section
5 319F-2, if such countermeasure was the subject
6 of a declaration under paragraph (1) at the
7 time that it was obtained for the stockpile, the
8 effective period of such declaration shall include
9 a period when the countermeasure is adminis-
10 tered or used pursuant to a distribution or re-
11 lease from the stockpile.

12 “(4) AMENDMENTS TO DECLARATION.—The
13 Secretary may through publication in the Federal
14 Register amend any portion of a declaration under
15 paragraph (1). Such an amendment shall not retro-
16 actively limit the applicability of subsection (a) with
17 respect to the administration or use of the covered
18 countermeasure involved.

19 “(5) CERTAIN DISCLOSURES.—In publishing a
20 declaration under paragraph (1) in the Federal Reg-
21 ister, the Secretary is not required to disclose any
22 matter described in section 552(b) of title 5, United
23 States Code.

24 “(6) FACTORS TO BE CONSIDERED.—In decid-
25 ing whether and under what circumstances or condi-



1 tions to issue a declaration under paragraph (1)
2 with respect to a covered countermeasure, the Sec-
3 retary shall consider the desirability of encouraging
4 the design, development, clinical testing or investiga-
5 tion, manufacture, labeling, distribution, formula-
6 tion, packaging, marketing, promotion, sale, pur-
7 chase, donation, dispensing, prescribing, administra-
8 tion, licensing, and use of such countermeasure.

9 “(7) JUDICIAL REVIEW.—No court of the
10 United States, or of any State, shall have subject
11 matter jurisdiction to review, whether by mandamus
12 or otherwise, any action by the Secretary under this
13 subsection.

14 “(8) PREEMPTION OF STATE LAW.—During the
15 effective period of a declaration under subsection
16 (b), or at any time with respect to conduct under-
17 taken in accordance with such declaration, no State
18 or political subdivision of a State may establish, en-
19 force, or continue in effect with respect to a covered
20 countermeasure any provision of law or legal re-
21 quirement that—

22 “(A) is different from, or is in conflict
23 with, any requirement applicable under this sec-
24 tion; and



1 “(B) relates to the design, development,
2 clinical testing or investigation, formulation,
3 manufacture, distribution, sale, donation, pur-
4 chase, marketing, promotion, packaging, label-
5 ing, licensing, use, any other aspect of safety or
6 efficacy, or the prescribing, dispensing, or ad-
7 ministration by qualified persons of the covered
8 countermeasure, or to any matter included in a
9 requirement applicable to the covered counter-
10 measure under this section or any other provi-
11 sion of this Act, or under the Federal Food,
12 Drug, and Cosmetic Act.

13 “(9) REPORT TO CONGRESS.—Within 30 days
14 after making a declaration under paragraph (1), the
15 Secretary shall submit to the appropriate committees
16 of the Congress a report that provides an expla-
17 nation of the reasons for issuing the declaration and
18 the reasons underlying the determinations of the
19 Secretary with respect to paragraph (2). Within 30
20 days after making an amendment under paragraph
21 (4), the Secretary shall submit to such committees
22 a report that provides the reasons underlying the de-
23 termination of the Secretary to make the amend-
24 ment.

25 “(c) DEFINITION OF WILLFUL MISCONDUCT.—



1 “(1) DEFINITION.—

2 “(A) IN GENERAL.—Except as the mean-
3 ing of such term is further restricted pursuant
4 to paragraph (2), the term ‘willful misconduct’
5 shall, for purposes of subsection (d), denote an
6 act or omission that is taken—

7 “(i) intentionally to achieve a wrong-
8 ful purpose;

9 “(ii) knowingly without legal or fac-
10 tual justification; and

11 “(iii) in disregard of a known or obvi-
12 ous risk that is so great as to make it
13 highly probable that the harm will out-
14 weigh the benefit.

15 “(B) RULE OF CONSTRUCTION.—The cri-
16 terion stated in subparagraph (A) shall be con-
17 strued as establishing a standard for liability
18 that is more stringent than a standard of neg-
19 ligence in any form or recklessness.

20 “(2) AUTHORITY TO PROMULGATE REGU-
21 LATORY DEFINITION.—

22 “(A) IN GENERAL.—The Secretary, in con-
23 sultation with the Attorney General, shall pro-
24 mulgate regulations, which may be promulgated
25 through interim final rules, that further restrict



1 the scope of actions or omissions by a covered
2 person that may qualify as 'willful misconduct'
3 for purposes of subsection (d).

4 "(B) FACTORS TO BE CONSIDERED.—In
5 promulgating the regulations under this para-
6 graph, the Secretary, in consultation with the
7 Attorney General, shall consider the need to de-
8 fine the scope of permissible civil actions under
9 subsection (d) in a way that will not adversely
10 affect the public health.

11 "(C) TEMPORAL SCOPE OF REGULA-
12 TIONS.—The regulations under this paragraph
13 may specify the temporal effect that they shall
14 be given for purposes of subsection (d).

15 "(D) INITIAL RULEMAKING.—Within 180
16 days after the enactment of the Public Readiness and
17 Emergency Preparedness Act, the Secretary, in consultation with the Attorney General, shall commence and complete an initial
18 rulemaking process under this paragraph.

19
20
21 "(3) PROOF OF WILLFUL MISCONDUCT.—In an
22 action under subsection (d), the plaintiff shall have
23 the burden of proving by clear and convincing evidence
24 willful misconduct by each covered person



1 sued and that such willful misconduct caused death
2 or serious physical injury.

3 “(4) DEFENSE FOR ACTS OR OMISSIONS TAKEN
4 PURSUANT TO SECRETARY’S DECLARATION.—Not-
5 withstanding any other provision of law, a program
6 planner or qualified person shall not have engaged
7 in ‘willful misconduct’ as a matter of law where such
8 program planner or qualified person acted consistent
9 with applicable directions, guidelines, or rec-
10 ommendations by the Secretary regarding the ad-
11 ministration or use of a covered countermeasure that
12 is specified in the declaration under subsection (b),
13 provided either the Secretary, or a State or local
14 health authority, was provided with notice of infor-
15 mation regarding serious physical injury or death
16 from the administration or use of a covered counter-
17 measure that is material to the plaintiff’s alleged
18 loss within 7 days of the actual discovery of such in-
19 formation by such program planner or qualified per-
20 son.

21 “(5) EXCLUSION FOR REGULATED ACTIVITY OF
22 MANUFACTURER OR DISTRIBUTOR.—

23 “(A) IN GENERAL.—If an act or omission
24 by a manufacturer or distributor with respect to
25 a covered countermeasure, which act or omis-



1 sion is alleged under subsection (e)(3)(A) to
2 constitute willful misconduct, is subject to regu-
3 lation by this Act or by the Federal Food,
4 Drug, and Cosmetic Act, such act or omission
5 shall not constitute 'willful misconduct' for pur-
6 poses of subsection (d) if—

7 “(i) neither the Secretary nor the At-
8 torney General has initiated an enforce-
9 ment action with respect to such act or
10 omission; or

11 “(ii) such an enforcement action has
12 been initiated and the action has been ter-
13 minated or finally resolved without a cov-
14 ered remedy.

15 Any action or proceeding under subsection (d)
16 shall be stayed during the pendency of such an
17 enforcement action.

18 “(B) DEFINITIONS.—For purposes of this
19 paragraph, the following terms have the fol-
20 lowing meanings:

21 “(i) ENFORCEMENT ACTION.—The
22 term 'enforcement action' means a crimi-
23 nal prosecution, an action seeking an in-
24 junction, a seizure action, a civil monetary
25 proceeding based on willful misconduct, a



1 mandatory recall of a product because vol-
2 untary recall was refused, a proceeding to
3 compel repair or replacement of a product,
4 a termination of an exemption under sec-
5 tion 505(i) or 520(g) of the Federal Food,
6 Drug, and Cosmetic Act, a debarment pro-
7 ceeding, an investigator disqualification
8 proceeding where an investigator is an em-
9 ployee or agent of the manufacturer, a rev-
10 ocation, based on willful misconduct, of an
11 authorization under section 564 of such
12 Act, or a suspension or withdrawal, based
13 on willful misconduct, of an approval or
14 clearance under chapter V of such Act or
15 of a licensure under section 351 of this
16 Act.

17 “(ii) COVERED REMEDY.—The term
18 ‘covered remedy’ means an outcome—

19 “(I) that is a criminal conviction,
20 an injunction, or a condemnation, a
21 civil monetary payment, a product re-
22 call, a repair or replacement of a
23 product, a termination of an exemp-
24 tion under section 505(i) or 520(g) of
25 the Federal Food, Drug, and Cos-



1 metic Act, a debarment, an investi-
2 gator disqualification, a revocation of
3 an authorization under section 564 of
4 such Act, or a suspension or with-
5 drawal of an approval or clearance
6 under chapter 5 of such Act or of a
7 licensure under section 351 of this
8 Act; and

9 “(II) that results from a final de-
10 termination by a court or from a final
11 agency action.

12 “(iii) FINAL.—The terms ‘final’ and
13 ‘finally’—

14 “(I) with respect to a court de-
15 termination, or to a final resolution of
16 an enforcement action that is a court
17 determination, mean a judgment from
18 which an appeal of right cannot be
19 taken or a voluntary or stipulated dis-
20 missal; and

21 “(II) with respect to an agency
22 action, or to a final resolution of an
23 enforcement action that is an agency
24 action, mean an order that is not sub-
25 ject to further review within the agen-



1 cy and that has not been reversed, va-
2 cated, enjoined, or otherwise nullified
3 by a final court determination or a
4 voluntary or stipulated dismissal.

5 “(C) RULES OF CONSTRUCTION.—

6 “(i) IN GENERAL.—Nothing in this
7 paragraph shall be construed—

8 “(I) to affect the interpretation
9 of any provision of the Federal Food,
10 Drug, and Cosmetic Act, of this Act,
11 or of any other applicable statute or
12 regulation; or

13 “(II) to impair, delay, alter, or
14 affect the authority, including the en-
15 forcement discretion, of the United
16 States, of the Secretary, of the Attor-
17 ney General, or of any other official
18 with respect to any administrative or
19 court proceeding under this Act,
20 under the Federal Food, Drug, and
21 Cosmetic Act, under title 18 of the
22 United States Code, or under any
23 other applicable statute or regulation.

24 “(ii) MANDATORY RECALLS.—A man-
25 datory recall called for in the declaration is



1 not a Food and Drug Administration en-
2 forcement action.

3 “(d) EXCEPTION TO IMMUNITY OF COVERED PER-
4 SONS.—

5 “(1) IN GENERAL.—Subject to subsection (f),
6 the sole exception to the immunity from suit and li-
7 ability of covered persons set forth in subsection (a)
8 shall be for an exclusive Federal cause of action
9 against a covered person for death or serious phys-
10 ical injury proximately caused by willful misconduct,
11 as defined pursuant to subsection (c), by such cov-
12 ered person. For purposes of section 2679(b)(2)(B)
13 of title 28, United States Code, such a cause of ac-
14 tion is not an action brought for violation of a stat-
15 ute of the United States under which an action
16 against an individual is otherwise authorized.

17 “(2) PERSONS WHO CAN SUE.—An action
18 under this subsection may be brought for wrongful
19 death or serious physical injury by any person who
20 suffers such injury or by any representative of such
21 a person.

22 “(e) PROCEDURES FOR SUIT.—

23 “(1) EXCLUSIVE FEDERAL JURISDICTION.—
24 Any action under subsection (d) shall be filed and



1 maintained only in the United States District Court
2 for the District of Columbia.

3 “(2) GOVERNING LAW.—The substantive law
4 for decision in an action under subsection (d) shall
5 be derived from the law, including choice of law
6 principles, of the State in which the alleged willful
7 misconduct occurred, unless such law is inconsistent
8 with or preempted by Federal law, including provi-
9 sions of this section.

10 “(3) PLEADING WITH PARTICULARITY.—In an
11 action under subsection (d), the complaint shall
12 plead with particularity each element of the plain-
13 tiff’s claim, including—

14 “(A) each act or omission, by each covered
15 person sued, that is alleged to constitute willful
16 misconduct relating to the covered counter-
17 measure administered to or used by the person
18 on whose behalf the complaint was filed;

19 “(B) facts supporting the allegation that
20 such alleged willful misconduct proximately
21 caused the injury claimed; and

22 “(C) facts supporting the allegation that
23 the person on whose behalf the complaint was
24 filed suffered death or serious physical injury.



1 “(4) VERIFICATION, CERTIFICATION, AND MED-
2 ICAL RECORDS.—

3 “(A) IN GENERAL.—In an action under
4 subsection (d), the plaintiff shall verify the com-
5 plaint in the manner stated in subparagraph
6 (B) and shall file with the complaint the mate-
7 rials described in subparagraph (C). A com-
8 plaint that does not substantially comply with
9 subparagraphs (B) and (C) shall not be accept-
10 ed for filing and shall not stop the running of
11 the statute of limitations.

12 “(B) VERIFICATION REQUIREMENT.—

13 “(i) IN GENERAL.—The complaint
14 shall include a verification, made by affi-
15 davit of the plaintiff under oath, stating
16 that the pleading is true to the knowledge
17 of the deponent, except as to matters spe-
18 cifically identified as being alleged on in-
19 formation and belief, and that as to those
20 matters the plaintiff believes it to be true.

21 “(ii) IDENTIFICATION OF MATTERS
22 ALLEGED UPON INFORMATION AND BE-
23 LIEF.—Any matter that is not specifically
24 identified as being alleged upon the infor-
25 mation and belief of the plaintiff, shall be



1 regarded for all purposes, including a
2 criminal prosecution, as having been made
3 upon the knowledge of the plaintiff.

4 “(C) MATERIALS REQUIRED.—In an action
5 under subsection (d), the plaintiff shall file with
6 the complaint—

7 “(i) an affidavit, by a physician who
8 did not treat the person on whose behalf
9 the complaint was filed, certifying, and ex-
10 plaining the basis for such physician’s be-
11 lief, that such person suffered the serious
12 physical injury or death alleged in the com-
13 plaint and that such injury or death was
14 proximately caused by the administration
15 or use of a covered countermeasure; and

16 “(ii) certified medical records docu-
17 menting such injury or death and such
18 proximate causal connection.

19 “(5) THREE-JUDGE COURT.—Any action under
20 subsection (d) shall be assigned initially to a panel
21 of three judges. Such panel shall have jurisdiction
22 over such action for purposes of considering motions
23 to dismiss, motions for summary judgment, and
24 matters related thereto. If such panel has denied
25 such motions, or if the time for filing such motions



1 has expired, such panel shall refer the action to the
2 chief judge for assignment for further proceedings,
3 including any trial. Section 1253 of title 28, United
4 States Code, and paragraph (3) of subsection (b) of
5 section 2284 of title 28, United States Code, shall
6 not apply to actions under subsection (d).

7 “(6) CIVIL DISCOVERY.—

8 “(A) TIMING.—In an action under sub-
9 section (d), no discovery shall be allowed—

10 “(i) before each covered person sued
11 has had a reasonable opportunity to file a
12 motion to dismiss;

13 “(ii) in the event such a motion is
14 filed, before the court has ruled on such
15 motion; and

16 “(iii) in the event a covered person
17 files an interlocutory appeal from the de-
18 nial of such a motion, before the court of
19 appeals has ruled on such appeal.

20 “(B) STANDARD.—Notwithstanding any
21 other provision of law, the court in an action
22 under subsection (d) shall permit discovery only
23 with respect to matters directly related to mate-
24 rial issues contested in such action, and the
25 court shall compel a response to a discovery re-

1 quest (including a request for admission, an in-
2 terrogatory, a request for production of docu-
3 ments, or any other form of discovery request)
4 under Rule 37, Federal Rules of Civil Proce-
5 dure, only if the court finds that the requesting
6 party needs the information sought to prove or
7 defend as to a material issue contested in such
8 action and that the likely benefits of a response
9 to such request equal or exceed the burden or
10 cost for the responding party of providing such
11 response.

12 “(7) REDUCTION IN AWARD OF DAMAGES FOR
13 COLLATERAL SOURCE BENEFITS.—

14 “(A) IN GENERAL.—In an action under
15 subsection (d), the amount of an award of dam-
16 ages that would otherwise be made to a plaintiff
17 shall be reduced by the amount of collateral
18 source benefits to such plaintiff.

19 “(B) PROVIDER OF COLLATERAL SOURCE
20 BENEFITS NOT TO HAVE LIEN OR SUBROGA-
21 TION.—No provider of collateral source benefits
22 shall recover any amount against the plaintiff
23 or receive any lien or credit against the plain-
24 tiff’s recovery or be equitably or legally sub-



1 rogated to the right of the plaintiff in an action
2 under subsection (d).

3 “(C) COLLATERAL SOURCE BENEFIT DE-
4 FINED.—For purposes of this paragraph, the
5 term ‘collateral source benefit’ means any
6 amount paid or to be paid in the future to or
7 on behalf of the plaintiff, or any service, prod-
8 uct, or other benefit provided or to be provided
9 in the future to or on behalf of the plaintiff, as
10 a result of the injury or wrongful death, pursu-
11 ant to—

12 “(i) any State or Federal health, sick-
13 ness, income-disability, accident, or work-
14 ers’ compensation law;

15 “(ii) any health, sickness, income-dis-
16 ability, or accident insurance that provides
17 health benefits or income-disability cov-
18 erage;

19 “(iii) any contract or agreement of
20 any group, organization, partnership, or
21 corporation to provide, pay for, or reim-
22 burse the cost of medical, hospital, dental,
23 or income disability benefits; or

24 “(iv) any other publicly or privately
25 funded program.



1 “(8) NONECONOMIC DAMAGES.—In an action
2 under subsection (d), any noneconomic damages may
3 be awarded only in an amount directly proportional
4 to the percentage of responsibility of a defendant for
5 the harm to the plaintiff. For purposes of this para-
6 graph, the term ‘noneconomic damages’ means dam-
7 ages for losses for physical and emotional pain, suf-
8 fering, inconvenience, physical impairment, mental
9 anguish, disfigurement, loss of enjoyment of life, loss
10 of society and companionship, loss of consortium,
11 hedonic damages, injury to reputation, and any
12 other nonpecuniary losses.

13 “(9) RULE 11 SANCTIONS.—Whenever a district
14 court of the United States determines that there has
15 been a violation of Rule 11 of the Federal Rules of
16 Civil Procedure in an action under subsection (d),
17 the court shall impose upon the attorney, law firm,
18 or parties that have violated Rule 11 or are respon-
19 sible for the violation, an appropriate sanction,
20 which may include an order to pay the other party
21 or parties for the reasonable expenses incurred as a
22 direct result of the filing of the pleading, motion, or
23 other paper that is the subject of the violation, in-
24 cluding a reasonable attorney’s fee. Such sanction
25 shall be sufficient to deter repetition of such conduct



1 or comparable conduct by others similarly situated,
2 and to compensate the party or parties injured by
3 such conduct.

4 “(10) INTERLOCUTORY APPEAL.—The United
5 States Court of Appeals for the District of Columbia
6 Circuit shall have jurisdiction of an interlocutory ap-
7 peal by a covered person taken within 30 days of an
8 order denying a motion to dismiss or a motion for
9 summary judgment based on an assertion of the im-
10 munity from suit conferred by subsection (a) or
11 based on an assertion of the exclusion under sub-
12 section (c)(5).

13 “(f) ACTIONS BY AND AGAINST THE UNITED
14 STATES.—Nothing in this section shall be construed to ab-
15 rogate or limit any right, remedy, or authority that the
16 United States or any agency thereof may possess under
17 any other provision of law or to waive sovereign immunity
18 or to abrogate or limit any defense or protection available
19 to the United States or its agencies, instrumentalities, of-
20 ficers, or employees under any other law, including any
21 provision of chapter 171 of title 28, United States Code
22 (relating to tort claims procedure).

23 “(g) SEVERABILITY.—If any provision of this section,
24 or the application of such provision to any person or cir-
25 cumstance, is held to be unconstitutional, the remainder

1 of this section and the application of such remainder to
2 any person or circumstance shall not be affected thereby.

3 “(h) RULE OF CONSTRUCTION CONCERNING NA-
4 TIONAL VACCINE INJURY COMPENSATION PROGRAM.—
5 Nothing in this section, or any amendment made by the
6 Public Readiness and Emergency Preparedness Act, shall
7 be construed to affect the National Vaccine Injury Com-
8 pensation Program under title XXI of this Act.

9 “(i) DEFINITIONS.—In this section:

10 “(1) COVERED COUNTERMEASURE.—The term
11 ‘covered countermeasure’ means—

12 “(A) a qualified pandemic or epidemic
13 product (as defined in paragraph (7));

14 “(B) a security countermeasure (as defined
15 in section 319F-2(c)(1)(B)); or

16 “(C) a drug (as such term is defined in
17 section 201(g)(1) of the Federal Food, Drug,
18 and Cosmetic Act (21 U.S.C. 321(g)(1)), bio-
19 logical product (as such term is defined by sec-
20 tion 351(i) of this Act), or device (as such term
21 is defined by section 201(h) of the Federal
22 Food, Drug and Cosmetic Act (21 U.S.C.
23 321(h)) that is authorized for emergency use in
24 accordance with section 564 of the Federal
25 Food, Drug, and Cosmetic Act.



1 “(2) COVERED PERSON.—The term ‘covered
2 person’, when used with respect to the administra-
3 tion or use of a covered countermeasure, means—

4 “(A) the United States; or

5 “(B) a person or entity that is—

6 “(i) a manufacturer of such counter-
7 measure;

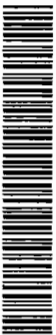
8 “(ii) a distributor of such counter-
9 measure;

10 “(iii) a program planner of such coun-
11 termeasure;

12 “(iv) a qualified person who pre-
13 scribed, administered, or dispensed such
14 countermeasure; or

15 “(v) an official, agent, or employee of
16 a person or entity described in clause (i),
17 (ii), (iii), or (iv).

18 “(3) DISTRIBUTOR.—The term ‘distributor’
19 means a person or entity engaged in the distribution
20 of drugs, biologics, or devices, including but not lim-
21 ited to manufacturers; repackers; common carriers;
22 contract carriers; air carriers; own-label distributors;
23 private-label distributors; jobbers; brokers; ware-
24 houses, and wholesale drug warehouses; independent
25 wholesale drug traders; and retail pharmacies.



1 “(4) MANUFACTURER.—The term ‘manufac-
2 turer’ includes—

3 “(A) a contractor or subcontractor of a
4 manufacturer;

5 “(B) a supplier or licensor of any product,
6 intellectual property, service, research tool, or
7 component or other article used in the design,
8 development, clinical testing, investigation, or
9 manufacturing of a covered countermeasure;
10 and

11 “(C) any or all of the parents, subsidiaries,
12 affiliates, successors, and assigns of a manufac-
13 turer.

14 “(5) PERSON.—The term ‘person’ includes an
15 individual, partnership, corporation, association, en-
16 tity, or public or private corporation, including a
17 Federal, State, or local government agency or de-
18 partment.

19 “(6) PROGRAM PLANNER.—The term ‘program
20 planner’ means a State or local government, includ-
21 ing an Indian tribe, a person employed by the State
22 or local government, or other person who supervised
23 or administered a program with respect to the ad-
24 ministration, dispensing, distribution, provision, or
25 use of a security countermeasure or a qualified pan-



1 demic or epidemic product, including a person who
 2 has established requirements, provided policy guid-
 3 ance, or supplied technical or scientific advice or as-
 4 sistance or provides a facility to administer or use
 5 a covered countermeasure in accordance with a dec-
 6 laration under subsection (b).

7 “(7) QUALIFIED PANDEMIC OR EPIDEMIC PROD-
 8 UCT.—The term ‘qualified pandemic or epidemic
 9 product’ means a drug (as such term is defined in
 10 section 201(g)(1) of the Federal Food, Drug, and
 11 Cosmetic Act (21 U.S.C. 321(g)(1)), biological prod-
 12 uct (as such term is defined by section 351(i) of this
 13 Act), or device (as such term is defined by section
 14 201(h) of the Federal Food, Drug and Cosmetic Act
 15 (21 U.S.C. 321(h)) that is—

16 “(A)(i) a product manufactured, used, de-
 17 signed, developed, modified, licensed, or
 18 procured—

19 “(I) to diagnose, mitigate, prevent,
 20 treat, or cure a pandemic or epidemic; or

21 “(II) to limit the harm such pandemic
 22 or epidemic might otherwise cause; or

23 “(ii) a product manufactured, used, de-
 24 signed, developed, modified, licensed, or pro-
 25 cured to diagnose, mitigate, prevent, treat, or



1 cure a serious or life-threatening disease or con-
2 dition caused by a product described in clause
3 (i); and

4 “(B)(i) approved or cleared under chapter
5 V of the Federal Food, Drug, and Cosmetic Act
6 or licensed under section 351 of this Act;

7 “(ii) the object of research for possible use
8 as described by subparagraph (A) and is the
9 subject of an exemption under section 505(i) or
10 520(g) of the Federal Food, Drug, and Cos-
11 metic Act; or

12 “(iii) authorized for emergency use in ac-
13 cordance with section 564 of the Federal Food,
14 Drug, and Cosmetic Act.

15 “(8) QUALIFIED PERSON.—The term ‘qualified
16 person’, when used with respect to the administra-
17 tion or use of a covered countermeasure, means—

18 “(A) a licensed health professional or other
19 individual who is authorized to prescribe, ad-
20 minister, or dispense such countermeasures
21 under the law of the State in which the coun-
22 termeasure was prescribed, administered, or
23 dispensed; or



1 “(B) a person within a category of persons
2 so identified in a declaration by the Secretary
3 under subsection (b).

4 “(9) SECURITY COUNTERMEASURE.—The term
5 ‘security countermeasure’ has the meaning given
6 such term in section 319F-2(c)(1)(B).

7 “(10) SERIOUS PHYSICAL INJURY.—The term
8 ‘serious physical injury’ means an injury that—

9 “(A) is life threatening;

10 “(B) results in permanent impairment of a
11 body function or permanent damage to a body
12 structure; or

13 “(C) necessitates medical or surgical inter-
14 vention to preclude permanent impairment of a
15 body function or permanent damage to a body
16 structure.”.

17 **SEC. 3. COVERED COUNTERMEASURE PROCESS.**

18 Part B of title III of the Public Health Service Act
19 is further amended by inserting after section 319F-3 (as
20 added by section 2) the following new section:

21 **“SEC. 319F-4. COVERED COUNTERMEASURE PROCESS.**

22 “(a) ESTABLISHMENT OF FUND.—Upon the issuance
23 by the Secretary of a declaration under section 319F-3(b),
24 there is hereby established in the Treasury ^{an emergency} fund des-
25 ignated as the ‘Covered Countermeasure Process Fund’



1 ~~for purposes of providing timely, uniform, and adequate~~
 2 ~~compensation to eligible individuals for covered injuries di-~~
 3 ~~rectly caused by the administration or use of a covered~~
 4 ~~countermeasure pursuant to such declaration, which Fund~~
 5 ~~shall consist of such amounts, as may be provided by law~~
 6 ~~after the establishment of such Fund.~~

Unused
34a

7 “(b) PAYMENT OF COMPENSATION.—

designated as
emergency appropriations,
is and only
when Congress
designates such
funds as
emergency
appropriations.

8 “(1) IN GENERAL.—If the Secretary issues a
 9 declaration under 319F-3(b), the Secretary shall,
 10 after amounts have by law been provided for the
 11 Fund under subsection (a), provide compensation to
 12 an eligible individual for a covered injury directly
 13 caused by the administration or use of a covered
 14 countermeasure pursuant to such declaration.

15 “(2) ELEMENTS OF COMPENSATION.—The com-
 16 pensation that shall be provided pursuant to para-
 17 graph (1) shall have the same elements, and be in
 18 the same amount, as is prescribed by sections 264,
 19 265, and 266 in the case of certain individuals in-
 20 jured as a result of administration of certain coun-
 21 termeasures against smallpox, except that section
 22 266(a)(2)(B) shall not apply.

23 “(3) RULE OF CONSTRUCTION.—Neither rea-
 24 sonable and necessary medical benefits nor lifetime
 25 total benefits for lost employment income due to per-



34a

for purposes of providing timely, uniform, and adequate compensation to eligible individuals for covered injuries directly caused by the administration or use of a covered countermeasure pursuant to such declaration, which Fund shall consist of such amounts designated as emergency appropriations under section 402 of H.Con.Res.95 of the 109th Congress, this emergency designation shall remain in effect through October 1, 2006.

1 manent and total disability shall be limited by sec-
2 tion 266.

3 “(4) DETERMINATION OF ELIGIBILITY AND
4 COMPENSATION.—Except as provided in this section,
5 the procedures for determining, and for reviewing a
6 determination of, whether an individual is an eligible
7 individual, whether such individual has sustained a
8 covered injury, whether compensation may be avail-
9 able under this section, and the amount of such
10 compensation shall be those stated in section 262
11 (other than in subsection (d)(2) of such section), in
12 regulations issued pursuant to that section, and in
13 such additional or alternate regulations as the Sec-
14 retary may promulgate for purposes of this section.
15 In making determinations under this section, other
16 than those described in paragraph (5)(A) as to the
17 direct causation of a covered injury, the Secretary
18 may only make such determination based on compel-
19 ling, reliable, valid, medical and scientific evidence.

20 “(5) COVERED COUNTERMEASURE INJURY
21 TABLE.—

22 “(A) IN GENERAL.—The Secretary shall by
23 regulation establish a table identifying covered
24 injuries that shall be presumed to be directly
25 caused by the administration or use of a cov-



1 ered countermeasure and the time period in
2 which the first symptom or manifestation of
3 onset of each such adverse effect must manifest
4 in order for such presumption to apply. The
5 Secretary may only identify such covered inju-
6 ries, for purpose of inclusion on the table,
7 where the Secretary determines, based on com-
8 pelling, reliable, valid, medical and scientific
9 evidence that administration or use of the cov-
10 ered countermeasure directly caused such cov-
11 ered injury.

12 “(B) AMENDMENTS.—The provisions of
13 section 263 (other than a provision of sub-
14 section (a)(2) of such section that relates to ac-
15 cidental vaccinia inoculation) shall apply to the
16 table established under this section.

17 “(C) JUDICIAL REVIEW.—No court of the
18 United States, or of any State, shall have sub-
19 ject matter jurisdiction to review, whether by
20 mandamus or otherwise, any action by the Sec-
21 retary under this paragraph.

22 “(6) MEANINGS OF TERMS.—In applying sec-
23 tions 262, 263, 264, 265, and 266 for purposes of
24 this section—



1 “(A) the terms ‘vaccine’ and ‘smallpox vac-
2 cine’ shall be deemed to mean a covered coun-
3 termeasure;

4 “(B) the terms ‘smallpox vaccine injury
5 table’ and ‘table established under section 263’
6 shall be deemed to refer to the table established
7 under paragraph (4); and

8 “(C) other terms used in those sections
9 shall have the meanings given to such terms by
10 this section.

11 “(c) VOLUNTARY PROGRAM.—The Secretary shall
12 ensure that a State, local, or Department of Health and
13 Human Services plan to administer or use a covered coun-
14 termeasure is consistent with any declaration under 319F-
15 3 and any applicable guidelines of the Centers for Disease
16 Control and Prevention and that potential participants are
17 educated with respect to contraindications, the voluntary
18 nature of the program, and the availability of potential
19 benefits and compensation under this part.

20 “(d) EXHAUSTION; EXCLUSIVITY; ELECTION.—

21 “(1) EXHAUSTION.—Subject to paragraph (5),
22 a covered individual may not bring a civil action
23 under section 319F-3(d) against a covered person
24 (as such term is defined in section 319F-3(i)(2))
25 unless such individual has exhausted such remedies



1 as are available under subsection (a), except that if
2 amounts have not by law been provided for the Fund
3 under subsection (a), or if the Secretary fails to
4 make a final determination on a request for benefits
5 or compensation filed in accordance with the require-
6 ments of this section within 240 days after such re-
7 quest was filed, the individual may seek any remedy
8 that may be available under section 319F-3(d).

9 “(2) TOLLING OF STATUTE OF LIMITATIONS.—
10 The time limit for filing a civil action under section
11 319F-3(d) for an injury or death shall be tolled dur-
12 ing the pendency of a claim for compensation under
13 subsection (a).

14 “(3) RULE OF CONSTRUCTION.—This section
15 shall not be construed as superseding or otherwise
16 affecting the application of a requirement, under
17 chapter 171 of title 28, United States Code, to ex-
18 haust administrative remedies.

19 “(4) EXCLUSIVITY.—The remedy provided by
20 subsection (a) shall be exclusive of any other civil ac-
21 tion or proceeding for any claim or suit this section
22 encompasses, except for a proceeding under section
23 319F-3.

24 “(5) ELECTION.—If under subsection (a) the
25 Secretary determines that a covered individual quali-



1 fies for compensation, the individual has an election
2 to accept the compensation or to bring an action
3 under section 319F-3(d). If such individual elects to
4 accept the compensation, the individual may not
5 bring such an action.

6 “(e) DEFINITIONS.—For purposes of this section, the
7 following terms shall have the following meanings:

8 “(1) COVERED COUNTERMEASURE.—The term
9 ‘covered countermeasure’ has the meaning given
10 such term in section 319F-3.

11 “(2) COVERED INDIVIDUAL.—The term ‘cov-
12 ered individual’, with respect to administration or
13 use of a covered countermeasure pursuant to a dec-
14 laration, means an individual—

15 “(A) who is in a population specified in
16 such declaration, and with respect to whom the
17 administration or use of the covered counter-
18 measure satisfies the other specifications of
19 such declaration; or

20 “(B) who uses the covered countermeasure,
21 or to whom the covered countermeasure is ad-
22 ministered, in a good faith belief that the indi-
23 vidual is in the category described by subpara-
24 graph (A).



1 “(3) COVERED INJURY.—The term ‘covered in-
2 jury’ means serious physical injury or death.

3 “(4) DECLARATION.—The term ‘declaration’
4 means a declaration under section 319F-3(b)

5 “(5) ELIGIBLE INDIVIDUAL.—The term ‘eligible
6 individual’ means an individual who is determined,
7 in accordance with subsection (b), to be a covered
8 individual who sustains a covered injury.”.



Managers on the part of the
HOUSE

C. W. BILL YOUNG

DAVID L. HOBSON

HENRY BONILLA

RODNEY P. FRELINGHUYSEN

TODD TIAHRT

ROGER F. WICKER

JACK KINGSTON

KAY GRANGER

JAMES T. WALSH

ROBERT B. ADERHOLT

JERRY LEWIS

Managers on the part of the
SENATE

TED STEVENS

THAD COCHRAN

ARLEN SPECTER

PETE V. DOMENICI

CHRISTOPHER S. BOND

MITCH MC CONNELL

RICHARD C. SHELBY

JUDD GREGG

KAY BAILEY HUTCHISON

CONRAD BURNS

DANIEL K. INOUYE

JOHN P. MURTHA

except for ANWR
act

NORMAN D. DICKS

except for 1%
cut in Div.

MARTIN OLAY SABO

except for Division
C and Division B as to
1% cut and Avian Flu
section

PETER J. VISCLOSKY

except for Division
B and C as to 1% cut,
avian flu and
ANWR provision

JAMES P. MORAN

except for:

- ANWR provision
- Divisions B and C as to
1% cut and avian
flu

MARCY KAPTUR

except for
1% cut

CHET EDWARDS

DAVID R. OBEY

except for
Division C, Division
B as to 1% cut
and Avian Flu
section

EXCEPT ANWR & ACROSS THE BOARD CUT +

Robert C. Byrd

AVIAN FLU
VACCINE
LIABILITY AND
COMPENSATION PROVISIONS

ROBERT C. BYRD

PATRICK J. LEAHY

TOM HARKIN

except on ANWR
: 1% cut +
AVIAN FLU VACCINE
LIABILITY AND
COMPENSATION
PROVISIONS

BYRON L. DORGAN

RICHARD J. DURBIN

HARRY REED

except ANWR
+ 1% cut +
AVIAN FLU VACCINE
LIABILITY AND
COMPENSATION
PROVISIONS

DIANNE FEINSTEIN

except ANWR: 1% ATB cut

BARBARA A. MILULSKI

AVIAN FLU VACCINE
LIABILITY AND COMPENSATION
PROVISIONS