

One Hundred Eighth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the seventh day of January, two thousand and three*

An Act

Making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—NATIONAL SECURITY

CHAPTER 1

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$12,858,870,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$816,100,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$753,190,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$3,384,700,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$23,997,064,000.

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OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy”, \$1,956,258,000, of which up to \$80,000,000 may be transferred to the Department of Homeland Security for Coast Guard Operations.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$1,198,981,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$5,416,368,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$4,355,452,000, of which—

(1) not to exceed \$15,000,000 may be used for the CINC Initiative Fund account, to be used primarily in Iraq and Afghanistan;

(2) \$32,000,000 is only for the Family Advocacy Program; and

(3) not to exceed \$1,150,000,000, to remain available until expended, may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with military action in Iraq and the global war on terrorism: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the use of these funds.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$16,000,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$53,000,000.

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OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$214,000,000.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for “Overseas Humanitarian, Disaster, and Civic Aid”, \$35,500,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For “Iraq Freedom Fund”, \$1,988,600,000, to remain available for transfer until September 30, 2005, for the purposes authorized under this heading in Public Law 108–11: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; military construction; the Defense Health Program; and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That not less than \$62,100,000 shall be transferred to “Other Procurement, Army” for the procurement of Up-armored High Mobility Multipurpose Wheeled Vehicles and associated equipment: *Provided further*, That \$10,000,000 shall be for the Family Readiness Program of the National Guard.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$101,600,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$1,143,687,000, to remain available until September 30, 2006.

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AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$158,600,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$76,357,000, to remain available until September 30, 2006.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$123,397,000, to remain available until September 30, 2006.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$53,972,000, to remain available until September 30, 2006.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for “Missile Procurement, Air Force”, \$20,450,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$3,438,006,000, to remain available until September 30, 2006.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$418,635,000, to remain available until September 30, 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$34,000,000, to remain available until September 30, 2005.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$39,070,000, to remain available until September 30, 2005.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$260,817,000, to remain available until September 30, 2005.

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REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$600,000,000.

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for “National Defense Sealift Fund”, \$24,000,000, to remain available until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$658,380,000 for Operation and maintenance.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$73,000,000: *Provided*, That these funds may be used only for such activities related to Afghanistan: *Provided further*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; and research, development, test and evaluation: *Provided further*, That the funds transferred shall be merged with and be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense.

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Intelligence Community Management Account”, \$21,500,000, to remain available until September 30, 2005; of which \$3,000,000 may be transferred to and merged with the Department of Energy, “Other Defense Activities”, and \$15,500,000 may be transferred to and merged with the Federal Bureau of Investigation, “Salaries and Expenses”.

GENERAL PROVISIONS, THIS CHAPTER

(TRANSFER OF FUNDS)

SEC. 1101. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to \$3,000,000,000 of the funds made available to the Department of Defense in this chapter: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That

the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2004, except for the fourth proviso.

SEC. 1102. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 1103. Sections 1318 and 1319 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 571), shall remain in effect during fiscal year 2004.

SEC. 1104. From October 1, 2003, through September 30, 2004, (a) the rates of pay authorized by section 310(a) of title 37, United States Code, shall be \$225; and (b) the rates of pay authorized by section 427(a)(1) of title 37, United States Code, shall be \$250.

SEC. 1105. DEFENSE EMERGENCY RESPONSE FUND CLOSE-OUT AUTHORITY.—(a) Section 1313 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 569), is amended by inserting “unobligated” before “balances”.

(b) Effective November 1, 2003, adjustments to obligations that before such date would have been properly chargeable to the Defense Emergency Response Fund shall be charged to any current appropriations account of the Department of Defense available for the same purpose.

SEC. 1106. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 1107. Notwithstanding any other provision of law, from funds made available in this Act to the Department of Defense under “Operation and Maintenance, Defense-Wide”, not to exceed \$150,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to provide assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: *Provided*, That such assistance may include the provision of equipment, supplies, services, training and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees not less than 15 days before providing assistance under the authority of this section.

SEC. 1108. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal year 2004 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 1109. In addition to amounts made available elsewhere in this Act, there is hereby appropriated to the Department of Defense \$313,000,000, to be used only for recovery and repair of damage due to natural disasters including Hurricane Isabel, to be distributed as follows:

“Operation and Maintenance, Army”, \$47,100,000;
“Operation and Maintenance, Navy”, \$87,600,000;
“Operation and Maintenance, Marine Corps”, \$6,700,000;
“Operation and Maintenance, Air Force”, \$169,300,000; and
“Other Procurement, Air Force”, \$2,300,000.

SEC. 1110. During the current fiscal year, from funds made available in this Act to the Department of Defense for operation and maintenance, not to exceed \$180,000,000 may be used, notwithstanding any other provision of law, to fund the Commander’s Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to establish and fund a similar program to assist the people of Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports, beginning on January 15, 2004, to the congressional defense committees regarding the source of funds and the allocation and use of funds made available pursuant to the authority provided in this section.

SEC. 1111. Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing an Analysis of Alternatives for replacing the capabilities of the existing Air Force fleet of KC-135 tanker aircraft.

ENHANCEMENTS TO EXEMPTION FOR MEMBERS WITH COMBAT-RELATED INJURIES FROM REQUIREMENT FOR PAYMENT OF SUBSISTENCE CHARGES WHILE HOSPITALIZED

SEC. 1112. (a) EXEMPTION MADE PERMANENT.—Subsection (c) of section 1075 of title 10, United States Code (as added by section 8146(a)(2) of the Department of Defense Appropriations Act, 2004 (Public Law 108–87)), is repealed.

(b) RETROACTIVITY.—Subsection (b) of section 8146 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87), is amended to read as follows:

“(b) EFFECTIVE DATE.—(1) Subsection (b)(2) of section 1075 of title 10, United States Code, as added by subsection (a), shall apply with respect to any period of hospitalization on or after September 11, 2001, because of an injury covered by that subsection that is incurred on or after that date.

“(2) The Secretary concerned (as defined in section 101 of title 37, United States Code) shall take such action as necessary to implement paragraph (1), including—

“(A) refunding any amount previously paid under section 1075 of title 10, United States Code, by a person who, by reason of paragraph (1), is not required to make such payment; and

“(B) waiving recovery of any unpaid amount for which a person has previously been charged under that section and which that person, by reason of paragraph (1), is not required to pay.”.

SEC. 1113. None of the funds available to the Department of Defense may be obligated to implement any action which alters the command responsibility or permanent assignment of forces until 270 days after such plan has been provided to the congressional defense committees.

SEC. 1114. Section 1074a of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

“(2) The Secretary concerned shall promptly transmit to each member of the Ready Reserve eligible for screening and care under this subsection a notification of eligibility for such screening and care.

“(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

“(4) Screening and care may not be provided under this section after September 30, 2004.”.

SEC. 1115. (a) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076a the following new section:

“§ 1076b. TRICARE program: coverage for members of the Ready Reserve

“(a) ELIGIBILITY.—Each member of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 10144(b) of this title is eligible, subject to subsection (h), to enroll in TRICARE and receive benefits under such enrollment for any period that the member—

“(1) is an eligible unemployment compensation recipient;

or

“(2) is not eligible for health care benefits under an employer-sponsored health benefits plan.

“(b) TYPES OF COVERAGE.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

“(A) Self alone coverage.

“(B) Self and family coverage.

“(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

“(c) OPEN ENROLLMENT PERIODS.—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.

“(d) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

“(2) Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

“(e) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section.

The Secretary shall prescribe for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage.

“(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

“(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

“(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

“(f) OTHER CHARGES.—A person who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

“(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in the TRICARE program under this section may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

“(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

“(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

“(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A member may not enroll in the TRICARE program under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

“(2) A member who enrolls in the TRICARE program under this section within 90 days after the date of the termination of the member’s entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.

“(i) CERTIFICATION OF NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member’s assertion that the member is not

covered for health care benefits under any other health benefits plan.

“(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term ‘eligible unemployment compensation recipient’ means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

“(k) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

“(l) TERMINATION OF AUTHORITY.—An enrollment in TRICARE under this section may not continue after September 30, 2004.”.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076a the following new item:

“1076b. TRICARE program: coverage for members of the Ready Reserve.”.

SEC. 1116. Section 1074 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

“(A) the date of the issuance of such order; or

“(B) 90 days before date on which the period of active duty is to commence under such order for that member.

“(2) In this subsection, the term ‘delayed-effective-date active-duty order’ means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

“(3) This section shall cease to be effective on September 30, 2004.”.

SEC. 1117. (a) Subject to subsection (b), during the period beginning on the date of the enactment of this Act and ending on September 30, 2004, section 1145(a) of title 10, United States Code, shall be administered by substituting for paragraph (3) the following:

“(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.”.

(b)(1) Subsection (a) shall apply with respect to separations from active duty that take effect on or after the date of the enactment of this Act.

(2) Beginning on October 1, 2004, the period for which a member is provided transitional health care benefits under section 1145(a) of title 10, United States Code, shall be adjusted as necessary to comply with the limits provided under paragraph (3) of such section.

SEC. 1118. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under Section 12302(a) of title 10, United States Code, each member

shall be notified in writing of the expected period during which the member will be mobilized.

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

SEC. 1119. The authority to utilize funds appropriated for fiscal year 2003 for purposes provided by the first clause of section 1314(1) of Public Law 108–11, shall apply to the utilization of available funds appropriated for fiscal year 2004 for such purposes.

SEC. 1120. (a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

(b) Each report shall include the following information:

(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

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

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

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

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

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

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

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

(A) The unit.

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

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

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SEC. 1121. In addition to amounts made available elsewhere in this Act, there is hereby appropriated to the Department of Defense \$100,000,000, for “Operation and Maintenance, Army”: *Provided*, That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

CHAPTER 2

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses”, \$23,183,000, for costs related to Hurricane Isabel damage.

EMERGENCY PREPAREDNESS AND RESPONSE

DISASTER RELIEF

For an additional amount for “Disaster Relief”, \$500,000,000, to remain available until expended.

GENERAL PROVISION, THIS CHAPTER

SEC. 1201. Effective upon the enactment of the Project Bio-Shield Act of 2003, the Department of Homeland Security Appropriations Act, 2004 (Public Law 108–90) is amended under the heading “Biodefense Countermeasures” by striking “securing medical countermeasures against biological terror attacks” and inserting the following: “procuring security countermeasures under section 319F–2(c) of the Public Health Service Act, as authorized under section 510(a) of the Homeland Security Act of 2002”.

CHAPTER 3

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$162,100,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, NAVY

For an additional amount for “Military Construction, Navy”, \$45,530,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$292,550,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Family Housing Operation and Maintenance, Army”, \$11,420,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND
MARINE CORPS

For an additional amount for “Family Housing Operation and Maintenance, Navy and Marine Corps”, \$6,280,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Family Housing Operation and Maintenance, Air Force”, \$6,981,000.

GENERAL PROVISION, THIS CHAPTER

SEC. 1301. (a) TEMPORARY AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR MILITARY CONSTRUCTION PROJECTS.—During fiscal year 2004, the Secretary of Defense may use this section as authority to obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States that the Secretary determines meets each of the following conditions:

(1) The construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of Operation Iraqi Freedom or the Global War on Terrorism.

(2) The construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence.

(3) The United States has no intention of using the construction after the operational requirements have been satisfied.

(4) The level of construction is the minimum necessary to meet the temporary operational requirements.

(b) LIMITATION ON USE OF AUTHORITY.—The total cost of the construction projects carried out under the authority of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed \$150,000,000 in fiscal year 2004.

(c) NOTIFICATIONS OF OBLIGATIONS OF FUNDS.—Within fifteen days after the date on which appropriated funds available for operation and maintenance are first obligated for a construction project under subsection (a), the Secretary of Defense shall submit to the Congressional defense committees notice of the obligation of funds and the construction project. The notice shall include the following:

(1) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

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(2) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

(3) Relevant documentation detailing the construction project.

(4) The total amount obligated for the construction.

(d) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each fiscal-year quarter of fiscal year 2004, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a report on the worldwide obligation and expenditure during that quarter of appropriated funds available for operation and maintenance for construction projects.

(2) The report shall include with regard to each project the following:

(A) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

(B) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

(C) Relevant documentation detailing the construction project.

(D) An estimate of the total cost of the construction project.

(E) The total amount obligated for the construction project as of the date of the submission of the report.

(e) RELATION TO OTHER AUTHORITIES.—The temporary authority provided by this section, and the limited authority provided by section 2805(c) of title 10, United States Code, to use appropriated funds available for operation and maintenance to carry out a construction project are the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects.

(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in this section are the following:

(1) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the House of Representatives.

TITLE II—IRAQ AND AFGHANISTAN RECONSTRUCTION AND INTERNATIONAL ASSISTANCE

CHAPTER 1

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

GENERAL LEGAL ACTIVITIES

For necessary expenses for “Salaries and Expenses, General Legal Activities”, \$15,000,000.

H. R. 3289—15

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING RESCISSION)

For necessary expenses for “Diplomatic and Consular Programs”, \$156,300,000, of which \$35,800,000 shall remain available until September 30, 2006.

Of the funds appropriated under this heading in the Emergency Wartime Supplemental Appropriations Act, 2003, \$35,800,000 are rescinded.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For necessary expenses for “Embassy Security, Construction, and Maintenance”, \$43,900,000, to remain available until expended: *Provided*, That funds provided under this heading do not include facilities requirements specific to the United States Agency for International Development, which are provided under the heading “United States Agency for International Development, Operating Expenses of the United States Agency for International Development”.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for “Emergencies in the Diplomatic and Consular Service”, \$115,500,000, to remain available until expended, which may be transferred to, and merged with, the appropriations for “Diplomatic and Consular Programs”: *Provided*, That of the funds made available under this heading, \$65,500,000 may be transferred to, and merged with, the appropriations for “Protection of Foreign Missions and Officials”; of which \$32,000,000 is for the reimbursement of the City of New York for costs associated with the protection of foreign missions and officials during the heightened state of alert following the September 11, 2001, terrorist attacks on the United States; of which \$8,500,000 is for costs associated with the 2003 Free Trade Area of the Americas Ministerial meeting; and of which \$25,000,000 is for costs associated with the 2004 Summit of the Industrialized Nations notwithstanding the limitations of 3 U.S.C. 202(10): *Provided further*, That of the funds previously appropriated under this heading, \$2,000,000 is for rewards for an indictee of the Special Court for Sierra Leone: *Provided further*, That any transfer of funds provided under this heading shall be treated as a reprogramming of funds under section 605 of Public Law 108–7.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses for “Contributions for International Peacekeeping Activities”, \$245,000,000, to remain available until expended.

H. R. 3289—16

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For necessary expenses for “International Broadcasting Operations”, for activities related to the Middle East Television Network broadcasting to Iraq, \$40,000,000.

GENERAL PROVISION—THIS CHAPTER

SEC. 2101. Funds appropriated under this chapter for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1956, as amended.

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$38,100,000, for direct support of operations in Afghanistan, to remain available until September 30, 2005.

In addition, for direct support of operations in Iraq, \$1,900,000, which shall be transferred to and merged with “Operating Expenses of the United States Agency for International Development Office of Inspector General” for financial and performance audits of the Iraq Relief and Reconstruction Fund and other assistance to Iraq, to remain available until September 30, 2005.

CAPITAL INVESTMENT FUND

For an additional amount for “Capital Investment Fund”, \$16,600,000, to remain available until expended: *Provided*, That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: *Provided further*, That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OTHER BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

IRAQ RELIEF AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961, for security, relief, rehabilitation and reconstruction in Iraq, \$18,649,000,000, to remain available until September 30, 2006, to be allocated as follows: \$3,243,000,000 for security and law enforcement; \$1,318,000,000 for justice, public safety infrastructure, and civil society, of which \$100,000,000 shall be made available for democracy building activities, and of which \$10,000,000 shall be made available to the United States Institute for Peace for activities supporting peace enforcement, peacekeeping and post-conflict peacebuilding; \$5,560,000,000 for the electric sector; \$1,890,000,000 for oil infrastructure; \$4,332,000,000 for water resources and sanitation; \$500,000,000 for transportation and telecommunications; \$370,000,000 for roads, bridges, and construction; \$793,000,000 for health care; \$153,000,000 for private sector development; and \$280,000,000 for education, refugees, human rights, and governance: *Provided*, That the President may reallocate up to 10 percent of any of the preceding allocations, except that the total for the allocation receiving such funds may not be increased by more than 20 percent: *Provided further*, That the President may increase one such allocation only by up to an additional 20 percent in the event of unforeseen or emergency circumstances: *Provided further*, That such reallocations shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds: *Provided further*, That funds appropriated under this heading shall be apportioned only to the Coalition Provisional Authority in Iraq (in its capacity as an entity of the United States Government), the Department of State, the Department of Health and Human Services, the Department of Treasury, the Department of Defense, and the United States Agency for International Development: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That of the amount appropriated in this paragraph, not less than \$6,000,000 shall be made available for administrative expenses of the Department of State Bureau of International Narcotics Control and Law Enforcement Affairs and not less than \$29,000,000 shall be made available for administrative expenses of the United States Agency for International Development for support of the reconstruction activities in Iraq: *Provided further*, That of the funds appropriated under this heading, up to 10 percent of such funds that are obligated, managed, or administered by an agency of the United States Government, other than the Coalition Provisional Authority, shall be made available to such agency to fully pay for its administrative expenses: *Provided further*, That up to 1 percent of the amount appropriated in this paragraph may be transferred to “Operating Expenses of the Coalition Provisional Authority”, and that any such transfer shall be in accordance

with the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961: *Provided further*, That funds appropriated under this heading shall be used to protect and promote public health and safety, including for the arrest, detention and prosecution of criminals and terrorists: *Provided further*, That of the funds appropriated under this heading, assistance shall be made available for Iraqi civilians who have suffered losses as a result of military operations: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization, may be credited to this Fund and used for such purposes: *Provided further*, That the Administrator of the Coalition Provisional Authority shall seek to ensure that programs, projects and activities funded under this heading, comply fully with USAID's "Policy Paper: Disability" issued on September 12, 1997: *Provided further*, That the Coalition Provisional Authority shall work, in conjunction with relevant Iraqi officials, to ensure that a new Iraqi constitution preserves full rights to religious freedom and tolerance of all faiths: *Provided further*, That of the funds appropriated under this heading, \$100,000,000 shall be transferred to and consolidated with funds appropriated by this Act for "Economic Support Fund" for assistance for Jordan, \$100,000,000 of such funds shall be transferred to and consolidated with funds appropriated by this Act for "International Disaster and Famine Assistance" for assistance for Liberia, and \$10,000,000 of such funds shall be transferred to and consolidated with funds appropriated by this Act for "International Disaster and Famine Assistance" for assistance for Sudan.

OPERATING EXPENSES OF THE COALITION PROVISIONAL AUTHORITY

For necessary expenses of the Coalition Provisional Authority in Iraq, established pursuant to United Nations Security Council resolutions including Resolution 1483, for personnel costs, transportation, supply, equipment, facilities, communications, logistics requirements, studies, physical security, media support, promulgation and enforcement of regulations, and other activities needed to oversee and manage the relief and reconstruction of Iraq and the transition to democracy, \$933,000,000, to remain available until September 30, 2005: *Provided*, That the appropriation of funds under this heading shall not be construed to limit or otherwise affect the ability of the Department of Defense to furnish assistance and services, and any other support, to the Coalition Provisional Authority.

In addition, \$50,000,000, to remain available until September 30, 2005, to be used to fulfill the reporting and monitoring requirements of this Act and for the preparation and maintenance of public records required by this Act.

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", \$872,000,000, to remain available until December 31, 2004: *Provided*, That not less than \$672,000,000 is available only for accelerated assistance for Afghanistan: *Provided further*, That these funds are available notwithstanding section 660 of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any comparable provision of law: *Provided further*, That these funds may be used

for activities related to disarmament, demobilization, and reintegration of militia combatants, including registration of such combatants, notwithstanding section 531(e) of the Foreign Assistance Act of 1961: *Provided further*, That the obligation of funds made available by this Act or any prior appropriations Act for the purpose of deploying and supporting senior advisors to the United States Chief of Mission in Kabul, Afghanistan, is subject to the regular reprogramming and notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961: *Provided further*, That \$60,000,000 should be made available for assistance for Afghan women and girls and \$5,000,000 shall be made available for the Afghan Independent Human Rights Commission: *Provided further*, That not less than \$8,000,000 is available only for the provision of adequate dedicated air transport and support for civilian personnel at provincial reconstruction team sites: *Provided further*, That upon the receipt by the Speaker of the House of Representatives and the President of the Senate of a determination by the President that the Government of Pakistan is cooperating with the United States in the global war on terrorism, not to exceed \$200,000,000 appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further*, That amounts that are made available under the previous proviso for the cost of modifying direct loans and guarantees shall not be considered “assistance” for the purposes of provisions of law limiting assistance to a country.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for International Disaster and Famine Assistance utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, to respond to or prevent unforeseen complex foreign crises in Liberia and Sudan, \$110,000,000, and by transfer not to exceed 0.5 percent of the funds appropriated under any other heading in this chapter, to remain available to the Secretary of State until September 30, 2005: *Provided*, That funds appropriated under this heading may be made available only pursuant to a determination by the President, after consultation with the appropriate congressional committees, that it is in the national interest and essential to efforts to reduce international terrorism to furnish assistance on such terms and conditions as he may determine for such purposes, including support for peace and humanitarian intervention operations: *Provided further*, That none of these funds shall be available to respond to natural disasters: *Provided further*, That funds made available under this heading to respond to or prevent unforeseen complex foreign crises shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That not less than \$100,000,000 of the funds appropriated under this heading shall be made available for assistance for Liberia.

H. R. 3289—20

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$170,000,000, to remain available until December 31, 2004, for accelerated assistance for Afghanistan.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$35,000,000, for accelerated assistance for Afghanistan.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for the “Foreign Military Financing Program”, \$287,000,000, for accelerated assistance for Afghanistan.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$50,000,000, to support the global war on terrorism.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 2201. None of the funds appropriated by this Act or any unexpended funds provided in Public Law 108–11 may be used to repay, in whole or in part, principal or interest on any loan or guarantee agreement entered into by the Government of Iraq with any private or public sector entity including with the government of any country (including any agency of such government or any entity owned in whole or in part by the government of such country) or with any international financial institution, prior to May 1, 2003: *Provided*, That for the purpose of this section, the term “international financial institution” shall mean those institutions contained in section 530(b) of division E of Public Law 108–7.

SEC. 2202 (a) Notwithstanding any other provision of law, none of the funds appropriated by this Act under the heading “Iraq Relief and Reconstruction Fund” and under the same heading in Public Law 108–11 may be used for entering into any Federal contract (including follow-on contract) using other than full and open competition, except in accordance with the Federal Property and Administrative Procedures Act (41 U.S.C. 251 et seq.), and any exception, if deemed necessary, shall be only upon the written approval of the Administrator of the Coalition Provisional Authority and the head of the executive agency of the United States awarding and managing such contract and such authority shall not be delegated.

(b) In any case in which procedures other than full and open competitive procedures are to be used to enter into a contract, the Administrator of the Coalition Provisional Authority or the

head of such executive agency of the United States shall submit not later than 7 calendar days before the award of the contract a notification to the Committees on Appropriations, and the Committees on Government Reform and International Relations of the House of Representatives, and the Committees on Governmental Affairs and Foreign Relations of the Senate. Such notification shall provide the justification for use of other than full and open competitive procedures, a brief description of the contract's scope, the amount of the contract, a discussion of how the contracting agency identified and solicited offers from contractors, a list of the contractors solicited, and the justification and approval documents (as required under section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)) on which was based the determination of use of procedures other than full and open competitive procedures.

(c)(1) This section shall not apply to contracts of less than \$5,000,000.

(2) This section also shall apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures using Iraq Relief and Reconstruction Funds in this Act and under Public Law 108–11 or funds made available in prior Foreign Operations, Export Financing and Related Programs Appropriations Acts.

(3) This section shall not apply to contracts authorized by the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 2203. (a) DISCLOSURE REQUIRED.—

(1) PUBLICATION AND PUBLIC AVAILABILITY.—The Administrator of the Coalition Provisional Authority or the head of an executive agency of the United States that enters into a contract for assistance for Iraq, using funds described in paragraph (2), through the use of other than full and open competitive procedures, shall publish in the Federal Register or Federal Business Opportunities, and otherwise make available to the public, including publication on the Coalition Provisional Authority's website, not later than 7 days before the date on which the contract is entered into, the following information:

(A) The amount of the contract.

(B) A brief description of the scope of the contract.

(C) A discussion of how the executive agency and, when applicable, the Coalition Provisional Authority, identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(D) The justification and approval documents (as required under section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)) on which was based the determination to use procedures other than competitive procedures.

(2) FUNDS.—The funds referred to in paragraph (1) are any funds under the heading "Iraq Relief and Reconstruction Fund" in this Act, and under the same heading in Public Law 108–11.

(3) APPLICABILITY.—

(A) This section shall also apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and

open competitive procedures using Iraq Relief and Reconstruction Funds in this Act and under Public Law 108–11 or funds made available in prior Foreign Operations, Export Financing and Related Programs Appropriations Acts.

(B) This section shall not apply to contracts of less than \$5,000,000.

(C) This section shall not apply to contracts authorized by the Small Business Act (15 U.S.C. 631 et seq.).

(b) CLASSIFIED INFORMATION.—

(1) AUTHORITY TO WITHHOLD.—The head of an executive agency may—

(A) withhold from publication and disclosure under subsection (a) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(B) redact any part so classified that is in a document not so classified before publication and disclosure of the document under subsection (a).

(2) AVAILABILITY TO CONGRESS.—In any case in which the head of an executive agency withholds information under paragraph (1), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(A) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(B) The Committees on Appropriations of the Senate and the House of Representatives.

(C) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information related.

(c) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(d) DEFINITIONS.—In this section and section 2202 of this Act, the terms “full and open competitive procedures” and “executive agency” have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 2204. Section 1503 of Public Law 108–11 is amended—

(1) by striking “equipment” and inserting in lieu thereof “equipment, including equipment”; and

(2) by striking “2004” and inserting in lieu thereof “2005”.

SEC. 2205. Section 1504 of Public Law 108–11 is amended by—

(1) in the first proviso, striking the first proviso, and inserting in lieu thereof: “*Provided*, That, subject to the notification requirements of this section, exports may be authorized of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of State for use for private security purposes.”; and

(2) in the last proviso, striking “2004” and inserting in lieu thereof “2005”.

SEC. 2206. Section 202(b) of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327) is amended by striking “\$300,000,000” and inserting in lieu thereof “\$450,000,000”.

SEC. 2207. (a) The Director of the Office of Management and Budget, in consultation with the Administrator of the Coalition Provisional Authority (CPA) and the Committees on Appropriations, shall submit to the Committees on Appropriations not later than January 5, 2004 and prior to the initial obligation of funds appropriated by this Act under the heading “Iraq Relief and Reconstruction Fund” a report on the proposed uses of all funds under this heading on a project-by-project basis, for which the obligation of funds is anticipated during the 3 month period from such date, including estimates by the CPA of the costs required to complete each such project: *Provided*, That up to 20 percent of funds appropriated under such heading may be obligated before the submission of the report: *Provided further*, That in addition such report shall include the following:

(1) The use of all funds on a project-by-project basis for which funds appropriated under such heading were obligated prior to the submission of the report, including estimates by the CPA of the costs required to complete each project.

(2) The distribution of duties and responsibilities regarding such projects among the agencies of the United States Government.

(3) Revenues to the CPA attributable to or consisting of funds provided by foreign governments and international organizations, disaggregated by donor, any obligations or expenditures of such revenues, and the purpose of such obligations and expenditures.

(4) Revenues to the CPA attributable to or consisting of foreign assets seized or frozen, any obligations or expenditures of such revenues, and the purpose of such obligations and expenditures.

(b) Any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures.

(c) The report required by subsection (a) shall be updated and submitted to the Committees on Appropriations every 3 months and shall include information on how the estimates and assumptions contained in previous reports have changed.

(d) The requirements of this section shall expire on October 1, 2007.

SEC. 2208. Any reference in this chapter to the “Coalition Provisional Authority in Iraq” or the “Coalition Provisional Authority” shall be deemed to include any successor United States Government entity with the same or substantially the same authorities and responsibilities as the Coalition Provisional Authority in Iraq.

SEC. 2209. Assistance or other financing under chapter 2 of this title may be provided for Iraq and Afghanistan notwithstanding any other provision of law not contained in this Act that restricts assistance to foreign countries and section 660 of the Foreign Assistance Act of 1961: *Provided*, That funds made available for Iraq pursuant to the authority of this section shall be subject to the regular reprogramming notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act

of 1961, except that notification shall be transmitted at least 5 days in advance of obligation.

SEC. 2210. Funds made available in chapter 2 of this title are made available notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956, as amended.

SEC. 2211. Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: *Provided*, That funds made available pursuant to the authority of this section shall be subject to the regular reprogramming notification procedures of the Committees on Appropriations.

SEC. 2212. In addition to transfer authority otherwise provided in chapter 2 of this title, any appropriation made available in chapter 2 of this title may be transferred between such appropriations, to be available for the same purposes and the same time as the appropriation to which transferred: *Provided*, That the total amount transferred pursuant to this section shall not exceed \$100,000,000: *Provided further*, That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further*, That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 10 days in advance of the obligation of funds.

SEC. 2213. Public Law 107-57 is amended—

(1) in section 1(b), by striking “2003” wherever appearing (including in the caption), and inserting in lieu thereof “2004”;

(2) in section 3(2), by striking “Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, as is” and inserting in lieu thereof “annual foreign operations, export financing, and related programs appropriations Acts for fiscal years 2002, 2003, and 2004, as are”; and

(3) in section 6, by striking “2003” and inserting in lieu thereof “2004”.

SEC. 2214. The Afghanistan Freedom Support Act of 2002 (Public Law 107-327), is amended in section 108(a), by striking “\$425,000,000 for each of the fiscal years 2003 through 2006” and inserting in lieu thereof “\$1,825,000,000 for fiscal year 2004 and \$425,000,000 for each of fiscal years 2005 and 2006”.

SEC. 2215. REPORTS ON IRAQ AND AFGHANISTAN. (a)(1) The Coalition Provisional Authority (CPA) shall, on a monthly basis until September 30, 2006, submit a report to the Committees on Appropriations which details, for the preceding month, Iraqi oil production and oil revenues, and uses of such revenues.

(2) The first report required by this subsection shall be submitted not later than 30 days after enactment of this Act.

(3) The reports required by this subsection shall also be made publicly available in both English and Arabic, including through the CPA’s Internet website.

(b) The Secretary of State, in consultation with the heads of other relevant Federal agencies, shall submit a report to the Committees on Appropriations not later than 90 days after enactment of this Act detailing:

(1) the amount of debt incurred by the Government of Saddam Hussein in Iraq, the impact forgiveness of such debt

would have on reconstruction and long-term prosperity in Iraq, and the estimated amount that Iraq will pay, or that will be paid on behalf of Iraq, to a foreign country to service such debt during fiscal year 2004;

(2) the efforts of the Government of the United States to increase resources contributed by foreign countries and international organizations, including the United Nations, to the reconstruction and rehabilitation of Iraq and to increase international participation in peacekeeping and security efforts in Iraq;

(3) the manner in which the needs of people with disabilities are being addressed in the development and implementation of programs, projects and activities funded by the United States Government in Iraq and Afghanistan;

(4) the progress being made toward indicting and trying leaders of the former Iraqi regime for war crimes, genocide, and crimes against humanity; and

(5) the efforts of relevant Iraqi officials and legal advisors to ensure that a new Iraqi constitution preserves religious freedom and tolerance of all faiths.

(c) Title III of Public Law 107–327 is amended as follows by inserting the following new section:

“SEC. 304. REPORTS.

“The Secretary of State shall submit reports to the Committees on Foreign Relations and Appropriations of the Senate, and the Committees on International Relations and Appropriations of the House of Representatives on progress made in accomplishing the ‘Purposes of Assistance’ set forth in section 102 of this Act utilizing assistance provided by the United States for Afghanistan. The first report shall be submitted no later than December 31, 2003, and subsequent reports shall be submitted in conjunction with reports required under section 303 of this title and thereafter through December 31, 2004.”.

SEC. 2216. None of the funds appropriated or otherwise made available under chapter 2 of title II of this Act may be obligated or expended for any activity in contravention of Articles 1 and 4 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.

SEC. 2217. PARTICIPATION OF WOMEN IN AFGHANISTAN AND IRAQ RECONSTRUCTION. (a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable—

(1) include the perspectives and advice of women’s organizations in Afghanistan and Iraq, respectively; and

(2) promote the high level participation of women in future legislative bodies and ministries and ensure that human rights for women are upheld in any constitution or legal institution of Afghanistan and Iraq, respectively.

(b) POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall, to the maximum extent practicable—

(1) encourage the United States organizations that receive funds made available by this Act to provide significant financial resources, technical assistance and capacity building to counterpart organizations led by Afghans and Iraqis, respectively;

(2) increase the access of women to, or ownership by women of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) provide long-term financial assistance for education for girls and women in Afghanistan and Iraq, respectively; and

(4) integrate education and training programs for former combatants in Afghanistan and Iraq, respectively, with economic development programs to—

(A) encourage the reintegration of such former combatants into society; and

(B) promote post-conflict stability in Afghanistan and Iraq, respectively.

(c) **MILITARY AND POLICE.**—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall include training, designed in consultation with women’s organizations in Afghanistan and Iraq, respectively, on the protection, rights, and particular needs of women.

TITLE III—INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY

SEC. 3001. INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY.

(a) **PURPOSES.**—The purposes of this section are as follows:

(1) To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations of the Coalition Provisional Authority (CPA).

(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to—

(A) promote economy efficiency, and effectiveness in the administration of such programs and operations; and

(B) prevent and detect fraud and abuse in such programs and operations.

(3) To provide for an independent and objective means of keeping the head of the Coalition Provisional Authority fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress for corrective action.

(b) **OFFICE OF INSPECTOR GENERAL.**—There is hereby established the Office of the Inspector General of the Coalition Provisional Authority.

(c) **APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.**—(1) The head of the Office of the Inspector General of the Coalition Provisional Authority is the Inspector General of the Coalition Provisional Authority, who shall be appointed by the Secretary of Defense, in consultation with the Secretary of State.

(2) The appointment of Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) The Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) For purposes of section 7324 of title 5, United States Code, the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) ASSISTANT INSPECTORS GENERAL.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the Coalition Provisional Authority; and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

(e) SUPERVISION.—(1) Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the head of the Coalition Provisional Authority.

(2) Neither the head of the Coalition Provisional Authority, any other officer of the Coalition Provisional Authority, nor any other officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(f) DUTIES.—(1) It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of appropriated funds by the Coalition Provisional Authority in Iraq, and of the programs, operations, and contracts carried out utilizing such funds, including—

(A) the oversight and accounting of the obligation and expenditure of such funds;

(B) the monitoring and review of reconstruction activities funded by such funds;

(C) the monitoring and review of contracts funded by such funds;

(D) the monitoring and review of the transfer of such funds and associated information between and among the Coalition Provisional Authority, other departments, agencies, and entities of the Federal Government, and private and nongovernmental entities; and

(E) the maintenance of records on the use of such funds to facilitate future audits and investigations of the use of such funds.

(2) The Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(4) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, the Inspector General of the Department of Defense.

(5) In carrying out the duties, and responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of the Inspector General of the United States Agency for International Development.

(g) POWERS AND AUTHORITIES.—(1) In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.

(2) The Inspector General shall carry out the duties specified in subsection (f)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—(1) The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of such title.

(3) To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4)(A) Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

(B) Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the Coalition Provisional Authority and to the appropriate committees of Congress without delay.

(5) The head of the Coalition Provisional Authority shall provide the Inspector General with appropriate and adequate office space at the central and field office locations of the Coalition Provisional Authority, together with such equipment, office supplies, and communications facilities and services as may be necessary for

the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(i) REPORTS.—(1) Not later than March 30, 2004, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Inspector General and the Coalition Provisional Authority during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Iraq, including the following:

(A) Obligations and expenditures of appropriated funds.

(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Iraq, together with the estimate of the Coalition Provisional Authority of the costs to complete each project and each program.

(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations, and any obligations or expenditures of such revenues.

(D) Revenues attributable to or consisting of foreign assets seized or frozen, and any obligations or expenditures of such revenues.

(E) Operating expenses of the Coalition Provisional Authority and of any other agencies or entities receiving appropriated funds.

(F) In the case of any contract described in paragraph

(2)—

(i) the amount of the contract or other agreement;

(ii) a brief discussion of the scope of the contract or other agreement;

(iii) a discussion of how the Coalition Provisional Authority identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers; and

(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) A contract described in this paragraph is any major contract or other agreement that is entered into by the Coalition Provisional Authority with any public or private sector entity for any of the following purposes:

(A) To build or rebuild physical infrastructure of Iraq.

(B) To establish or reestablish a political or societal institution of Iraq.

(C) To provide products or services to the people of Iraq.

(3) Not later than June 30, 2004, and semiannually thereafter, the Inspector General shall submit to the appropriate committees of Congress a report meeting the requirements of section 5 of the Inspector General Act of 1978.

(4) The Inspector General shall publish each report under this subsection in both English and Arabic on the Internet website of the Coalition Provisional Authority.

(5) Each report under this subsection may include a classified annex if the Inspector General considers it necessary.

(6) Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(j) REPORT COORDINATION.—(1) The Inspector General shall also submit each report under subsection (i) to the head of the Coalition Provisional Authority.

(2)(A) Not later than 30 days after receipt of a report under paragraph (1), the head of the Coalition Provisional Authority may submit to the appropriate committees of Congress any comments on the matters covered by the report as the head of the Coalition Provisional Authority considers appropriate.

(B) A report under this paragraph may include a classified annex if the head of the Coalition Provisional Authority considers it necessary.

(k) TRANSPARENCY.—(1) Not later than 60 days after the date of the submittal to Congress of a report under subsection (i), the head of the Coalition Provisional Authority shall make copies of such report available to the public upon request, and at a reasonable cost.

(2) Not later than 60 days after the date of the submittal to Congress under subsection (j)(2) of comments on a report under subsection (i), the head of the Coalition Provisional Authority shall make copies of such comments available to the public upon request, and at a reasonable cost.

(l) WAIVER.—(1) The President may waive the requirement under paragraph (1) or (3) of subsection (i) for the inclusion in a report under such paragraph of any element otherwise provided for under such paragraph if the President determines that the waiver is justified for national security reasons.

(2) The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

(m) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and International Relations of the House of Representatives.

(n) FUNDING.—(1) Of the amounts appropriated for fiscal year 2004 for the Operating Expenses of the Coalition Provisional Authority in title II of this Act, \$75,000,000 shall be available to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(o) The Office of Inspector General shall terminate 6 months after the authorities and duties of the Coalition Provisional Authority cease to exist.

TITLE IV—GENERAL PROVISIONS, THIS ACT

SEC. 4001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 4002. The amounts provided in this Act are designated by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95 (108th Congress).

SEC. 4003. For purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) of the Elementary and Secondary Education Act (20 U.S.C. 7703(a)) for school year 2003–2004, children enrolled in a school of such agency who would otherwise be eligible to be claimed for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

This Act may be cited as the “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*