# AMENDMENT TO THE SENATE AMENDMENT TO H.R. 2638

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

DIVISION A—CONTINUING APPROPRIATIONS RESOLUTION, 2009
DIVISION B—DISASTER RELIEF AND RECOVERY SUPPLEMENTAL APPROPRIATIONS ACT, 2008
DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2009
DIVISION D—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2009
DIVISION E—MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2009

**SEC. 3. REFERENCES.**

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

**SEC. 4. EXPLANATORY STATEMENT.**

The explanatory statement regarding this legislation, printed in the House of Representatives section of the

Congressional Record on or about September 24, 2008 by the Chairman of the Committee on Appropriations of the House, shall have the same effect with respect to the allocation of funds and implementation of this Act as if it were a joint explanatory statement of a committee of conference.

# DIVISION A—CONTINUING APPROPRIATIONS RESOLUTION, 2009

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2009, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2008 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2008, and for which appropriations, funds, or other authority were made available in the following appropriations Acts: divisions A, B, C, D, F, G, H, J, and K of the Consolidated Appropriations Act, 2008 (Public Law 110–161).

SEC. 102. Rates for operations shall be calculated under section 101 without regard to any amount designated in the applicable appropriations Acts for fiscal year 2008 as an emergency requirement or necessary to

meet emergency needs pursuant to any concurrent resolution on the budget, other than the following amounts:

(1) $150,000,000 provided in Public Law 110–252 for "Department of Health and Human Services—Food and Drug Administration—Salaries and Expenses".

(2) $143,539,000 provided in division B of Public Law 110–161 for "Department of Justice—Federal Bureau of Investigation—Salaries and Expenses".

(3) $110,000,000 provided in Public Law 110–252 for "Department of Labor—Employment and Training Administration—State Unemployment Insurance and Employment Service Operations", without regard to the dates specified under such heading.

(4) $272,000,000 of the $575,000,000 provided in division J of Public Law 110–161 for "Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs" in the first paragraph under such heading, and $206,632,000 provided in the last paragraph under such heading.

(5) $76,700,000 provided in subchapter A of chapter 4 of title I of Public Law 110–252 for "Department of State—Administration of Foreign Af-

fairs—Embassy Security, Construction, and Maintenance".

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2008.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2009, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act for fiscal year 2009 without any provision for such project or activity; or (3) March 6, 2009.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2009 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that per-

mitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2008, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2008, to be continued through the date specified in section 106(3).

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2008 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2008, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions

to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. Notwithstanding section 101, amounts are provided for "Department of Agriculture—Food and Nutrition Service—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)" at a rate for operations of $6,658,000,000.

SEC. 115. Notwithstanding section 101, amounts are provided for "Department of Agriculture—Rural Housing Service—Rental Assistance Program" at a rate for operations of $997,000,000.

SEC. 116. Section 14222(b)(1) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246) shall not apply through the date specified in section 106(3) of this joint resolution.

SEC. 117. Notwithstanding section 101, amounts are provided for "Department of Agriculture—Rural Housing

Service—Rural Housing Insurance Fund Program Account", for the cost of unsubsidized guaranteed loans for section 502 borrowers, at the rate necessary to maintain the same principal amount of loan guarantee commitments as made in fiscal year 2008.

SEC. 118. With respect to amounts provided by section 101 for the Department of Agriculture, sections 101 and 104 may not be construed to prohibit the use of such amounts for necessary administrative expenses for programs for which direct spending authority (as defined in section 250(c)(8)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)(A))) is provided by the Food, Conservation, and Energy Act of 2008 (Public Law 110–246).

SEC. 119. Notwithstanding section 101, amounts are provided for "Department of Agriculture–Food and Nutrition Service—Commodity Assistance Program" at a rate for operations of $233,791,000, of which $163,218,000 shall be for carrying out the Commodity Supplemental Food Program.

SEC. 120. Notwithstanding section 101, amounts are provided for "Department of Commerce—Bureau of the Census—Periodic Censuses and Programs" at a rate for operations of $2,906,262,000. From such amounts, funds

may be used for additional promotion, outreach, and marketing activities.

SEC. 121. Notwithstanding the limitations on administrative expenses in subsections (c)(2) and (c)(3)(A) of section 3005 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109–171; 120 Stat. 21), the Assistant Secretary (as such term is defined in section 3001(b) of such Act) may expend funds made available under sections 3006, 3008, and 3009 of such Act for additional administrative expenses of the digital-to-analog converter box program established by such section 3005 at a rate not to exceed $180,000,000 through the date specified in section 106(3) of this joint resolution.

SEC. 122. Notwithstanding section 101, amounts are provided for "Department of Justice—Federal Prison System—Salaries and Expenses" at a rate for operations of $5,396,615,000.

SEC. 123. Notwithstanding section 101, amounts are provided for "Department of Justice—General Administration—Detention Trustee" at a rate for operations of $1,245,920,000.

SEC. 124. Amounts provided by section 101 for the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in S. 3182 (110th Congress), the Commerce, Justice,

Science, and Related Agencies Appropriations Act, 2009, as reported by the Committee on Appropriations of the Senate.

SEC. 125. Section 7(1)(B) of Public Law 106–178 (50 U.S.C. 1701 note) is amended by striking "January 1, 2012" and inserting "July 1, 2016".

SEC. 126. In addition to amounts otherwise provided by section 101, an additional amount is provided for "Department of Justice—Legal Activities—Salaries and Expenses, General Legal Activities" to reimburse the Office of Personnel Management for salaries and expenses associated with the Federal observer program under section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f), at a rate for operations of $3,390,000, of which $1,090,000 shall be derived by transfer from amounts provided by section 101 for "Office of Personnel Management—Salaries and Expenses".

SEC. 127. Section 14704 of title 40, United States Code, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2007".

SEC. 128. Amounts provided by section 101 for "Department of the Army—Corps of Engineers-Civil—Construction" for inland waterway major rehabilitation

projects shall not be derived from the Inland Waterways Trust Fund.

SEC. 129. (a) Notwithstanding any other provision of this joint resolution, there is appropriated $7,510,000,000 for fiscal year 2009 for "Department of Energy—Energy Programs—Advanced Technology Vehicles Manufacturing Loan Program Account" for the cost of direct loans as authorized by section 136(d) of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17013(d)), to remain available until expended. Of such amount, $10,000,000 shall be used for administrative expenses in carrying out the direct loan program. Commitments for direct loans using such amount shall not exceed $25,000,000,000 in total loan principal. The cost of such direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(c) Section 136 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17013) is amended as follows:

(1) In subsection (d)(1), by adding at the end the following: "The loans shall be made through the Federal Financing Bank, with the full faith and credit of the United States Government on the principal and interest. The full credit subsidy shall be paid by the Secretary using appropriated funds.".

(2) In subsection (e), by striking "The Secretary shall issue regulations that require that," and inserting the following: "Not later than 60 days after the enactment of the Continuing Appropriations Resolution, 2009, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section. Such interim final rule shall require that,".

(3) By adding at the end the following new subsection:

"(j) APPOINTMENT AND PAY OF PERSONNEL.—(1) The Secretary may use direct hiring authority pursuant to section 3304(a)(3) of title 5, United States Code, to appoint such professional and administrative personnel as

the Secretary deems necessary to the discharge of the Secretary's functions under this section.

"(2) The rate of pay for a person appointed pursuant to paragraph (1) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 such title 5.

"(3) The Secretary may retain such consultants as the Secretary deems necessary to the discharge of the functions required by this section, pursuant to section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427).".

SEC. 130. (a) In addition to the amounts otherwise provided by section 101 for "Department of Energy—Energy Programs—Energy Efficiency and Renewable Energy" for weatherization assistance under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.), there is appropriated $250,000,000 for an additional amount for fiscal year 2009, to remain available until expended.

(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SEC. 131. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Department of the Treasury—Internal Revenue Service—Taxpayer Services" to meet the requirements of the Economic Stimulus Act of 2008 (Public Law 110–185), at a rate for operations of $67,900,000.

SEC. 132. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Executive Office of the President—Office of Administration—Salaries and Expenses" for e-mail restoration activities, at a rate for operations of $5,700,000.

SEC. 133. Notwithstanding section 101, amounts are provided for "Executive Office of the President—Office of Administration—Presidential Transition Administrative Support" to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note) at a rate for operations of $8,000,000. Such funds may be transferred to other accounts that provide funding for offices within the Executive Office of the President and the Office of the Vice President in this joint resolution or any other Act, to carry out such purposes.

SEC. 134. Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for

such programs and activities under title IV of S. 3260 (110th Congress), as reported by the Committee on Appropriations of the Senate, at the rate set forth under "District of Columbia Funds" as included in the Fiscal Year 2009 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 9, 2008.

SEC. 135. Notwithstanding section 101, amounts are provided for "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" for a direct Federal payment to the District of Columbia, at a rate for operations of $15,000,000.

SEC. 136. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Federal Communications Commission—Salaries and Expenses" for consumer education associated with the transition to digital television occurring on February 17, 2009, at a rate for operations of $20,000,000.

SEC. 137. Notwithstanding section 101, amounts are provided for "General Services Administration—Expenses, Presidential Transition" to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note) at a rate for operations of $8,520,000, of which not to exceed $1,000,000 is for activities authorized by paragraphs (8) and (9) of section 3(a) of such Act.

SEC. 138. Notwithstanding section 101, amounts are provided for "General Services Administration—Allowances and Office Staff for Former Presidents" to carry out the provisions of the Act of August 25, 1958 (3 U.S.C. 102 note) at a rate for operations of $2,682,000.

SEC. 139. Notwithstanding section 101, the limitation on gross obligations applicable under the heading "National Credit Union Administration—Central Liquidity Facility" in division D of Public Law 110–161 shall be the amount authorized by section 307(a)(4)(A) of the Federal Credit Union Act (12 U.S.C. 1795f(a)(4)(A)).

SEC. 140. Notwithstanding section 101, amounts are provided to carry out section 504(d) of title 39, United States Code, as amended by section 603(a) of the Postal Accountability and Enhancement Act (Public Law 109–435), at a rate for operations of $14,043,000, to be derived by transfer from the Postal Service Fund.

SEC. 141. Notwithstanding section 101, amounts are provided to carry out section 8G(f)(6) of the Inspector General Act of 1978 (5 U.S.C. App.), as added by section 603(b)(3) of the Postal Accountability and Enhancement Act (Public Law 109–435), at a rate for operations of $233,440,000, to be derived by transfer from the Postal Service Fund.

SEC. 142. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2009 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.9 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security. Such adjustment shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2009.

(b) The adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2009 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in subsection (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of such title 5. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of such title 5 and prevailing rate employees described in section 5343(a)(5) of such title 5 shall be considered to be located in the pay locality designated as "Rest of US" pursuant to section 5304 of such title 5 for purposes of this subsection.

(c) Funds used to carry out this section shall be paid from appropriations which are made to each applicable de-

partment or agency for salaries and expenses for fiscal year 2009.

(d) The provisions of this section shall apply notwithstanding any other provision of this joint resolution.

SEC. 143. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "the 11-year period beginning on the first day the pilot program is in effect".

SEC. 144. The requirement set forth in section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) shall continue through the date specified in section 106(3) of this joint resolution.

SEC. 145. Sections 1309(a) and 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a) and 4026) shall each be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008".

SEC. 146. Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008".

SEC. 147. The authority provided by section 330 of Public Law 106–291 (43 U.S.C. 1701 note), as amended by section 428 of Public Law 109–54, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 148. Section 337(a) of division E of Public Law 108–447, as amended by section 420 of division F of Public Law 110–161, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008".

SEC. 149. Section 503(f) of Public Law 109–54 (16 U.S.C. 580d note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008".

SEC. 150. The authority provided by section 325 of Public Law 108–108 (117 Stat. 1307) shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 151. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Department of the Interior—National Park Service—Operation of the National Park System" for security and visitor safety activities related to the Presidential Inaugural Ceremonies, at a rate for operations of $2,000,000.

SEC. 152. (a) Sections 104, 105, and 433 of division F of Public Law 110–161 shall not apply to amounts provided by this joint resolution.

(b) Nothing in this section amends or shall be construed as amending the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), including the public comment periods mandated by section 18 of that Act (43 U.S.C. 1344), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or any other law or regulation.

SEC. 153. Amounts provided by section 101 for implementation of the Modified Water Deliveries to Everglades National Park shall be made available to the Army Corps of Engineers, which shall immediately carry out Alternative 3.2.2.a to U.S. Highway 41 (the Tamiami Trail) as substantially described in the Limited Reevaluation Report with Integrated Environmental Assessment and addendum, approved August 2008, which, for purposes of this section, is determined to meet the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), including subsection (r), in order to achieve the goals set forth in section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r-8).

SEC. 154. Activities authorized by chapters 2, 3, and 5 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), including section 246 of such Act, shall continue through the date specified in section 106(3) of this joint resolution.

SEC. 155. (a) In lieu of the amount otherwise provided by section 101 for "Department of Health and Human Services—Administration for Children and Families—Low-Income Home Energy Assistance", there is appropriated for such account for making payments under the Low-Income Home Energy Assistance Act of 1981, $5,100,000,000, which shall remain available through September 30, 2009. Of such amount, $4,509,672,000 is for payments under subsections (b) and (d) of section 2602 of such Act and $590,328,000 is for payments under subsection (e) of such section. All but $839,792,000 of the amount provided by this section for such subsections (b) and (d) shall be allocated as though the total appropriation for such payments for fiscal year 2009 was less than $1,975,000,000.

(b) Notwithstanding section 2605(b)(2)(B)(ii) of such Act, a State may use any amount of an allotment from prior appropriations Acts that is available to that State for providing assistance in fiscal year 2009, and any allotment from funds appropriated in this section or in

any other appropriations Act for fiscal year 2009, to provide assistance to households whose income does not exceed 75 percent of the State median income.

(c) The amount provided by this section shall be obligated to States within 30 calender days from the date of enactment of this joint resolution.

(d) Of the amount provided by this section, $2,779,672,000 is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(e) The provisions of this section shall apply notwithstanding any other provision of this joint resolution.

SEC. 156. Notwithstanding section 101, amounts are provided for "Corporation for National and Community Service—Operating Expenses" to carry out subtitle E of the National and Community Service Act of 1990 at a rate for operations of $23,782,000.

SEC. 157. (a) Amounts provided by section 101 for "Department of Health and Human Services—Office of the Secretary—General Departmental Management" are also available for the purpose of funding the National Commission on Children and Disasters authorized under

title VI of division G of Public Law 110–161 (the "title VI Commission").

(b) Effective on and after the date of enactment of this joint resolution (1) the National Commission on Children and Disasters established by the Secretary of Health and Human Services under section 1114 of the Social Security Act (the "section 1114 Commission"), together with its members, personnel, and other resources and obligations, shall be considered to be the title VI Commission and shall no longer be subject to the provisions of such section 1114; and (2) for purposes of any contract entered into by any component of the Department of Health and Human Services in fiscal year 2008 for support of the section 1114 Commission, any reference to the section 1114 Commission shall be deemed to refer to the title VI Commission.

SEC. 158. (a) Notwithstanding section 101, amounts are provided for "Department of Education–Student Financial Assistance" at a rate for operations of $18,627,136,000, of which $16,761,000,000 shall be for carrying out subpart 1 of part A of title IV of the Higher Education Act of 1965.

(b) Subparagraph (E) of section 401(b)(8) of the Higher Education Act of 1965 shall not apply to any funds made available under subparagraph (A) of such sec-

tion through the date specified in section 106(3) of this joint resolution.

SEC. 159. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to the heirs-at-law of Stephanie Tubbs Jones, late a Representative from the State of Ohio, $169,300.

SEC. 160. (a) Notwithstanding any other provision of this joint resolution, there is appropriated for "Department of Veterans Affairs—Veterans Benefits Administration—Filipino Veterans Equity Compensation Fund" for payments to eligible persons who served in the Philippines during World War II as authorized, $198,000,000, to remain available until expended.

(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SEC. 161. The authority provided by section 1603(a) of Public Law 109–234 shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 162. Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)), the authority of subsections (a) through (c) of section 234

of such Act shall remain in effect through the date specified in section 106(3) of this joint resolution.

SEC. 163. Notwithstanding any other provision of this joint resolution, up to $5,000,000 of the amounts appropriated under the heading "Other Bilateral Economic Assistance—Department of the Treasury—Debt Restructuring" in Public Law 109–102, in such Act as made applicable to fiscal year 2007 by the Continuing Appropriations Resolution, 2007 (as amended by Public Law 110–5), and in title III of division J of Public Law 110–161, may be used to assist Liberia in buying back its commercial debt through the Debt Reduction Facility of the International Development Association.

SEC. 164. The first proviso under the heading "Department of State—Migration and Refugee Assistance" in title III of division J of Public Law 110–161 shall not apply to amounts provided by this joint resolution.

SEC. 165. Notwithstanding section 101 of this joint resolution, the number in the third proviso under the heading "Military Assistance—Funds Appropriated to the President—Foreign Military Financing Program" in title IV of division J of Public Law 110–161 shall be deemed to be $670,650,000 and shall apply to the $2,550,000,000 made available for assistance for Israel in fiscal year 2009

under the heading "Foreign Military Financing Program".

SEC. 166. Notwithstanding section 101, amounts are provided for "Department of Transportation—Federal Aviation Administration—Operations" at a rate for operations of $8,756,800,000, of which not less than $1,099,402,000 shall be available for aviation safety activities.

SEC. 167. Amounts provided by section 101 for "Department of Transportation—Maritime Administration—Operations and Training" shall include amounts necessary to satisfy the salaries and benefits of employees of the United States Merchant Marine Academy, to be derived solely from the total amount made available in this joint resolution for the United States Merchant Marine Academy. The Secretary of Transportation shall inform the Committees on Appropriations of the House of Representatives and the Senate of salaries and expenses funding obligated for personnel that had heretofore not been compensated from funds made available under this account.

SEC. 168. Notwithstanding any other provision of this joint resolution, other than section 106, the Secretary of Housing and Urban Development shall obligate funds provided by section 101 at a rate the Secretary determines is necessary to renew, in a timely manner, all section 8

project-based rental assistance contracts. In renewing such contracts, the Secretary may provide for payments to be made beyond the period covered by this joint resolution.

SEC. 169. Section 24(o) of the United States Housing Act of 1937 (42 U.S.C. 1437v(o)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008".

SEC. 170. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)), the Secretary of Housing and Urban Development may, until the date specified in section 106(3) of this joint resolution, insure and enter into commitments to insure mortgages under section 255 of such Act.

SEC. 171. During the period covered by this joint resolution, commitments to guarantee loans insured under the Mutual Mortgage Insurance Fund, as authorized by the National Housing Act (12 U.S.C. 1701 et seq.), shall not exceed a loan principal of $1,154,000,000 multiplied by the number of days in such period.

SEC. 172. Notwithstanding any other provision of this joint resolution, from funds made available for personnel compensation and benefits or salaries and expenses under any account in title II of division K of Public Law

110–161 (except for "Office of Inspector General" and "Office of Federal Housing Enterprise Oversight—Salaries and Expenses"), up to $15,000,000 may be transferred to "Working Capital Fund" for information technology needs for the Federal Housing Administration.

SEC. 173. Amounts provided by section 101 for "National Transportation Safety Board—Salaries and Expenses" shall include amounts necessary to make lease payments due in fiscal year 2009 only, on an obligation incurred in 2001 under a capital lease.

SEC. 174. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of (1) the date specified in section 106(3) of this joint resolution; or (2) the date of enactment of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

This division may be cited as the "Continuing Appropriations Resolution, 2009".

DIVISION B—DISASTER RELIEF AND RECOVERY SUPPLEMENTAL APPROPRIATIONS ACT, 2008

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

## TITLE I—RELIEF AND RECOVERY FROM NATURAL DISASTERS

### CHAPTER 1—AGRICULTURE AND RURAL DEVELOPMENT

#### DEPARTMENT OF AGRICULTURE

##### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $5,000,000, to remain available until expended, for oversight of disaster- and emergency-related funding provided by this chapter.

##### AGRICULTURAL RESEARCH SERVICE

###### BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $5,000,000, to remain available until expended, for the repair and reconstruction of buildings damaged by natural disasters occurring during 2008.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $5,000,000, to remain available through September 30, 2010, for pathogen surveillance and eradication to address confirmed or suspected outbreaks.

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for the "Emergency Watershed Protection Program", $100,000,000, to remain available until expended, for disaster recovery operations.

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For an additional amount for "Emergency Conservation Program", $115,000,000, to remain available until expended.

RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT DISASTER ASSISTANCE FUND

For grants, and for the cost of direct and guaranteed loans, for authorized activities of agencies of the Rural Development Mission Area, $150,000,000, to remain available until expended, which shall be allocated as follows: $59,000,000 for single and multi-family housing activities; $40,000,000 for community facilities activities; $26,000,000 for utilities activities; and $25,000,000 for

business activities: *Provided,* That such funds shall be for areas affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974: *Provided further,* That the cost of such direct and guaranteed loans, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That the Secretary of Agriculture may reallocate funds made available in this paragraph among the 4 specified activities, if the Secretary notifies the Committees on Appropriations of the House of Representatives and the Senate not less than 15 days prior to such reallocation.

In addition, for an additional amount for grants, and for the cost of direct and guaranteed loans, for authorized activities of the Rural Housing Service, $38,000,000, to remain available until expended, for single and multi-family housing activities: *Provided,* That such funds shall be for areas affected by Hurricanes Katrina and Rita: *Provided further*, That the cost of such direct and guaranteed loans, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

## GENERAL PROVISIONS, THIS CHAPTER

(INCLUDING TRANSFERS OF FUNDS)

SEC. 10101. (a) RURAL DEVELOPMENT DISASTER ASSISTANCE FUND.—Hereafter, there is established in the Treasury a fund entitled the "Rural Development Disaster Assistance Fund".

(b) PURPOSE AND AVAILABILITY OF FUND.—Subject to subsection (d), amounts in the Rural Development Disaster Assistance Fund shall be available to the Secretary of Agriculture, until expended, to provide additional amounts for authorized activities of agencies of the Rural Development Mission Area in areas affected by a disaster declared by the President or the Secretary of Agriculture. Amounts so provided shall be in addition to any other amounts available to carry out the activity.

(c) WAIVER OF ACTIVITY OR PROJECT LIMITATIONS.—The Secretary of Agriculture may waive any limits on population, income, or cost-sharing otherwise applicable to an activity or project for which amounts in the Rural Development Disaster Assistance Fund will be obligated under subsection (b), except that, if the amounts proposed to be obligated in connection with the disaster would exceed the amount specified in subsection (h), the notification required by that subsection shall include infor-

mation and justification with regard to any waivers to be granted under this subsection.

(d) TREATMENT OF CERTAIN AMOUNTS IN FUND.—Amounts appropriated directly to the Rural Development Disaster Assistance Fund by this Act or any subsequent Act for a specific purpose shall be available only for that purpose until such time as the transfer authority provided by subsection (f) takes effect with regard to the amounts. Only subsection (e), including the notification requirements of such subsection, and subsections (g) and (i) apply to amounts described in this subsection.

(e) TRANSFER OF PRIOR APPROPRIATIONS TO FUND.—The Secretary of Agriculture may transfer to the Rural Development Disaster Assistance Fund, and merge with other amounts generally appropriated to the Fund, the available unobligated balance of any amounts that were appropriated before the date of the enactment of this Act for programs and activities of the Rural Development Mission Area to respond to a disaster and were designated by the Congress as an emergency requirement if, in advance of the transfer, the Secretary determines that the unobligated amounts are no longer needed to respond to the disaster for which the amounts were originally appropriated and the Secretary provides a certification of this

determination to the Committees on Appropriations of the House of Representatives and the Senate.

(f) TRANSFER OF OTHER APPROPRIATIONS TO FUND.—Unless otherwise specifically provided in an appropriations Act, the Secretary of Agriculture may transfer to or within the Rural Development Disaster Assistance Fund, and merge with other amounts generally appropriated to the Fund, the available unobligated balance of any amounts that are appropriated for fiscal year 2009 or any subsequent fiscal year for programs and activities of the Rural Development Mission Area to respond to a disaster and are designated by the Congress as an emergency requirement if, in advance of the transfer, the Secretary determines that the unobligated amounts are no longer needed to respond to the disaster for which the amounts were originally appropriated and the Secretary provides a certification of this determination to the Committees on Appropriations of the House of Representatives and the Senate. A transfer of unobligated amounts with respect to a disaster may not be made under this subsection until after the end of the two-year period beginning on the date on which the amounts were originally appropriated for that disaster.

(g) ADMINISTRATIVE EXPENSES.—In addition to any other funds available to the Secretary of Agriculture to

cover administrative costs, the Secretary may use up to 3 percent of the amounts allocated from the Rural Development Disaster Assistance Fund for a specific disaster to cover administrative costs of Rural Development's State and local offices in the areas affected by the disaster to carry out disaster related activities.

(h) LIMITATION ON PER DISASTER OBLIGATIONS.—Amounts in the Rural Development Disaster Assistance Fund, except for amounts described in subsection (d) that are appropriated to the Fund and obligated in accordance with that subsection, may not be obligated in excess of $1,000,000 for a disaster until at least 15 days after the date on which the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate of the Secretary's determination to obligate additional amounts and the reasons for the determination. The Secretary may not obligate more than 50 percent of the funds contained in the Rural Development Disaster Assistance Fund for any one disaster unless the Secretary declares that there is a specific and extreme need that additional funds must be provided in response to such disaster at time of the obligation.

(i) QUARTERLY REPORTS.—The Secretary of Agriculture shall submit, on a quarterly basis, to the Committees on Appropriations of the House of Representatives

and the Senate a report describing the status of the Rural Development Disaster Assistance Fund and any transactions that have affected the Fund since the previous report.

SEC. 10102. Section 1601 (c)(2) of the Food, Conservation and Energy Act of 2008 (Public Law 110-246) shall apply in implementing section 12033 of such Act.

## CHAPTER 2—COMMERCE AND SCIENCE

## DEPARTMENT OF COMMERCE

### ECONOMIC DEVELOPMENT ADMINISTRATION

#### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Pursuant to section 703 of the Public Works and Economic Development Act (42 U.S.C. 3233), for an additional amount for "Economic Development Assistance Programs", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure related to the consequences of hurricanes, floods and other natural disasters occuring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, $400,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", to improve hurricane track and intensity forecasts for the protection of life and property, $11,000,000, to remain available until September 30, 2009.

In addition, for an additional amount for "Operations, Research, and Facilities", for fishery disaster assistance, $75,000,000, to remain available until September 30, 2009: *Provided*, That the National Marine Fisheries Service shall cause such amounts to be distributed among eligible recipients of assistance for fishery resource disasters and commercial fishery failures as declared by the Secretary of Commerce under sections 308(b) and 308(d) of the Interjurisdicitional Fisheries Act (16 U.S.C. 4107) and sections 312(a) and 315 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a) and 1864).

PROCUREMENT, ACQUISITION, AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition, and Construction", to improve hurricane track and intensity forecasts for the protection of life and property, $6,000,000, to remain available until September 30, 2009.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION CAPABILITIES

For an additional amount for "Exploration Capabilities", for necessary expenses for restoration and mitigation of National Aeronautics and Space Administration owned infrastructure and facilities related to the consequences of hurricanes, floods, and other natural disasters occuring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $30,000,000, to remain available until expended with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available to reimburse costs incurred and for transfer to "Science, Aeronautics and Exploration" in accordance with section 505 of division B of Public Law 110-161.

CHAPTER 3—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for "Construction" for necessary expenses related to the consequences of Hurricane

Katrina and other hurricanes, floods and other natural disasters, $1,538,800,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $38,800,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further*, That the Secretary is directed to use $1,500,000,000 of the funds appropriated under this heading to fund the estimated amount of the non-Federal cash contribution for projects in southeast Louisiana that will be financed in accordance with the provisions of section 103(k) of Public Law 99–662 over a period of 30 years from the date of completion of the project or separable element, with $700,000,000 used for the Lake Pontchartrain and Vicinity project; $350,000,000 used for the West Bank and Vicinity project and $450,000,000 used for elements of the Southeast Louisiana Urban Drainage project that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes and any reallocation of funds that is necessary to accomplish the established goals is authorized subject to the approval of the Committees

on Appropriations of the House of Representatives and the Senate: *Provided further*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Mississippi River and Tributaries" for recovery from natural disasters, $82,400,000, to remain available until expended, to dredge eligible projects in response to and repair damages to Federal projects caused by recent natural disasters: *Provided*, That $35,000,000 shall be used to reimburse projects where funding was transferred to the Flood Control and Coastal Emergencies account under the provisions of section 5 of the Act of August 18, 1941 (33 U.S.C. 701n): *Provided further*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance" to dredge navigation channels and repair other

Corps projects related to natural disasters, $740,000,000, to remain available until expended: *Provided*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of recent hurricanes and other natural disasters as authorized by law, $415,600,000, to remain available until expended to support emergency operations, repair eligible projects nationwide, and for other activities in response to natural disasters: *Provided*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

CHAPTER 4—FINANCIAL SERVICES AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

CONSTRUCTION AND ACQUISITION

For an additional amount to be deposited in the Federal Buildings Fund, $182,000,000, exclusive of permitted escalation, is authorized and available for the Administrator to proceed with necessary site acquisition, design, and construction for the new courthouse project in Cedar Rapids, Iowa: *Provided*, That the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts provided unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2009 and remain in the Federal Buildings Fund except for funds for projects to which funds for design or other funds have been obligated in whole or in part prior to such date.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $10,000,000, to remain available until September 30, 2009, for grants under section 21 of the Small Business Act (15 U.S.C. 648) to small business development centers to provide technical assistance to small business concerns affected by recent hurricanes, flooding, and other natural disasters in calendar year 2008: *Provided*, That the Administrator of the Small Business Administration shall waive the matching requirement under section 21(a)(4)(A) of such Act for any grant made using funds made available under this heading.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General" for necessary expenses related to the consequences of recent hurricanes and other natural disasters in calendar year 2008, $3,000,000, to remain available until expended.

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the "Disaster Loans Program Account" for the cost of direct loans authorized by section 7(b) of the Small Business Act, for necessary expenses related to recent hurricanes and other natural disasters, $498,000,000, to remain available until ex-

pended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program authorized by section 7(b) in response to recent hurricanes and other natural disasters, including onsite assistance to disaster victims, increased staff at call centers, processing centers, and field inspections teams, and attorneys to assist in loan closings, $288,000,000 to remain available until expended; of which $279,000,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program, which may be paid to appropriations for Salaries and Expenses; and of which $9,000,000 is for indirect administrative expenses, which may be paid to appropriations for Salaries and Expenses.

## CHAPTER 5—HOMELAND SECURITY

## DEPARTMENT OF HOMELAND SECURITY

### COAST GUARD

### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Acquisition, Construction, and Improvements" for necessary expenses related to the consequences of 2008 natural disasters and flooding, $300,000,000, to remain available until expended:

*Provided,* That notwithstanding the transfer limitation contained in section 503 of division E of Public Law 110–161, such funding may be transferred to other Coast Guard appropriations after notification as required in accordance with such section: *Provided further,* That a plan listing all facilities to be reconstructed and restored, with associated costs, shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Disaster Relief", $7,960,000,000, to remain available until expended: *Provided*, That of the amount provided, up to $98,150,000 may be transferred to the "Disaster Assistance Direct Loan Program Account" for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184), of which up to $4,200,000 is for administrative expenses to carry out the direct loan program: *Provided further*, That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $100,000,000 under section 417 of such Act: *Provided further*, That the cost of modifying such loans

shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a): *Provided further*, That of the amount provided, up to $8,000,000 shall be transferred to the "Department of Homeland Security Office of Inspector General" for audits and investigations related to disasters.

GENERAL PROVISIONS, THIS CHAPTER

(INCLUDING RESCISSION OF FUNDS)

SEC. 10501. (a) RESCISSION.—Of amounts previously made available from "Federal Emergency Management Agency—Disaster Relief" to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5170c) for Hurricane Katrina, an additional $20,000,000 is rescinded.

(b) APPROPRIATION.—For "Federal Emergency Management Agency—State and Local Programs", there is appropriated an additional $20,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina.

SEC. 10502. There is hereby appropriated to the Secretary of the Department of Homeland Security not to exceed $100,000,000, to remain available until September 30, 2009, for payments to the American Red Cross for

reimbursement of disaster relief and recovery expenditures and emergency services provided in the United States associated with hurricanes, floods, and other natural disasters occurring in 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, and only to the extent funds are not made available for those activities by other Federal sources: *Provided*, That these funds may be administered by any authorized federal government agency to meet the purposes of this provision and that total administrative costs shall not exceed 3 percent of the total appropriation: *Provided further*, That the Comptroller General shall audit the use of these funds by the American Red Cross.

SEC. 10503. Until such time as preliminary flood insurance rate maps initiated prior to October 1, 2008 are completed and released for public review, preliminary base flood elevations are published in the Federal Register, and the second required local newspaper publication of such base flood elevations is made for the City of St. Louis, St. Charles and St. Louis counties in Missouri, and Madison, Monroe, and St. Clair counties in Illinois, the Administration shall not begin the statutory appeals process in such areas required under section 1363 of the National Flood Insurance Act of 1968.

CHAPTER 6—INTERIOR AND ENVIRONMENT

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Wildland Fire Management", $135,000,000, to remain available until expended, of which (1) $110,000,000 is for urgent wildland fire suppression activities, including repayments to other accounts from which funds were transferred in fiscal year 2008 for wildfire suppression so that all such transfers for fiscal year 2008 are fully repaid; and (2) $25,000,000 is for burned area rehabilitation.

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for "Construction", $75,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes and natural disasters.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Capital Improvement and Maintenance", $30,000,000, to remain available until

expended, for necessary expenses, including cleanup, related to the consequences of hurricanes, floods and other natural disasters.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Wildland Fire Management", $775,000,000, to remain available until expended, of which (1) $500,000,000 shall be available for emergency wildfire suppression and related activities, of which no less than $300,000,000 shall be transferred to Forest Service accounts within 15 days of enactment of this Act so that all such transfers for wildfire suppression in fiscal year 2008 are fully repaid, including $30,000,000 reallocated between programs in the Wildland Fire Management Account; and of which $100,000,000 shall be transferred within 15 days of enactment of this Act to the fund established by section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.) to repay transfers made for previous emergency wildfire suppression activities; (2) $175,000,000 shall be available for hazardous fuels reduction and hazard mitigation activities in areas at high risk of catastrophic wildfire due to population density and fuel loads, of which $125,000,000 is available for work on State and private lands using all the authorities available to the Forest Service; (3) $75,000,000 is for rehabilitation

and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary; and (4) $25,000,000 is for preparedness for retention initiatives in areas at high risk of catastrophic wildfire that face recurrent staffing shortages.

## CHAPTER 7—HEALTH AND HUMAN SERVICES AND EDUCATION

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### ADMINISTRATION FOR CHILDREN AND FAMILIES

##### SOCIAL SERVICES BLOCK GRANT

For an additional amount for "Social Services Block Grant", $600,000,000, which shall remain available through September 30, 2009, for necessary expenses resulting from hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, and from Hurricanes Katrina and Rita, notwithstanding section 2003 and paragraphs (1) and (4) of section 2005(a) of the Social Security Act: *Provided,* That notwithstanding section 2002 of the Social Security Act, the distribution of such amount shall be limited to States directly affected by these events: *Provided further,* That the Secretary of Health and Human Services shall dis-

tribute such amount to eligible States based on demonstrated need in accordance with objective criteria that are made available to the public: *Provided further,* That in addition to other uses permitted by title XX of the Social Security Act, funds appropriated under this heading may be used for health services (including mental health services), and for repair, renovation, and construction of health care facilities (including mental health facilities), child care centers, and other social services facilities.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for "School Improvement Programs" for education for homeless children and youths (as defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), $15,000,000, to remain available through September 30, 2009: *Provided,* That such funds shall be made available, based on demonstrated need, only to local educational agencies whose enrollment of homeless students has increased as a result of hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974: *Provided further*, That such funds shall be used for the activities described in section 723(d) of such Act (42 U.S.C.

11433(d)) and services provided using such funds shall comply with paragraphs (2) and (3) of section 723(a) of such Act (42 U.S.C. 11433(a)): *Provided further*, That the local educational agency requirements described in paragraphs (3) through (7) of section 722(g) of such Act (42 U.S.C. 11432(g)) shall apply: *Provided further*, That the Secretary of Education shall distribute these funds to such local educational agencies not later than 120 days after the date of the enactment of this Act.

HIGHER EDUCATION DISASTER RELIEF

For an additional amount under part B of title VII of the Higher Education Act of 1965 ("HEA") for institutions of higher education (as defined in section 101 or section 102(c) of that Act) that are located in an area affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $15,000,000, to remain available through September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Education only for payments to help defray the expenses (which may include lost revenue, reimbursement for expenses already incurred, and construction) incurred by such institutions of higher education that were forced to close, relocate, or whose operations were im-

paired as a result of damage directly caused by such hurricanes, floods, and other natural disasters occurring during 2008, and for payments to enable such institutions to provide grants to students who attend such institutions for academic years beginning on or after July 1, 2008: *Provided further*, That such payments shall be made in accordance with criteria established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act, section 553 of title 5, United States Code, or part B of title VII of the HEA: *Provided further*, That the Secretary shall award funds available under this paragraph not later than 60 days after the date of the enactment of this Act.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 10701. (a) EXTENSION OF WAIVER AUTHORITY.—Section 105 of subtitle A of title IV of division B of Public Law 109–148 (119 Stat. 2797) is amended—

(1) in subsection (b)—

(A) in the first sentence, by striking "for fiscal year 2007." and inserting "for any of fiscal years 2007 through 2009."; and

(B) by striking the second sentence; and

(2) in subsection (c)(2), by striking "for fiscal year 2006 or 2007" and inserting "for any fiscal year".

(b) APPLICATION OF WAIVER AUTHORITY TO AREAS AFFECTED IN 2008.—The authority of the Secretary of Education under section 105 of subtitle A of title IV of division B of Public Law 109–148 (119 Stat. 2797), as amended by subsection (a), may be exercised with respect to an entity in an area affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

SEC. 10702. (a) ALLOCATION AND USE OF CAMPUS-BASED HIGHER EDUCATION ASSISTANCE.—

(1) WAIVER OF MATCHING REQUIREMENTS.—Notwithstanding sections 413C(a)(2) and 443(b)(5) of the Higher Education Act of 1965 (20 U.S.C. 1070b-2(a)(2); 42 U.S.C. 2753(b)(5)), with respect to funds made available for academic year 2009-2010 to an institution of higher education located in an area affected by a 2008 natural disaster, the Secretary shall waive the requirement that a participating institution of higher education provide a non-Federal share or a capital contribution, as the case may be, to match Federal funds provided to the institution for the programs authorized pursuant to

subpart 3 of part A and part C of title IV of such Act.

(2) WAIVER OF REALLOCATION RULES.—

(A) AUTHORITY TO REALLOCATE.—Notwithstanding sections 413D(d) and 442(d) of the Higher Education Act of 1965 (20 U.S.C. 1070b-3(d); 42 U.S.C. 2752(d)), the Secretary shall—

(i) reallocate any funds returned under any of those sections that were allocated to institutions of higher education for award year 2008–2009 to an institution of higher education that is eligible under this paragraph; and

(ii) waive the allocation reduction for award year 2009-2010 for an institution returning more than 10 percent of its allocation under any of those sections.

(B) ELIGIBLE INSTITUTIONS FOR REALLOCATION.—An institution of higher education may receive a reallocation of excess allocations under this paragraph if the institution—

(i) participates in the program for which excess allocations are being reallocated; and

(ii) is located in an area affected by a 2008 natural disaster.

(C) BASIS OF REALLOCATION.—The Secretary shall determine the manner in which excess allocations shall be reallocated to institutions under subparagraph (A), and shall give additional consideration to the needs of institutions located in an area affected by a 2008 natural disaster.

(D) ADDITIONAL WAIVER AUTHORITY.—Notwithstanding any other provision of law, in order to carry out this paragraph, the Secretary may waive or modify any statutory or regulatory provision relating to the reallocation of excess allocations under subpart 3 of part A or part C of title IV of the Higher Education Act of 1965 in order to ensure that assistance is received by institutions described in subsection (a)(2)(B).

(b) DEFINITIONS.—In this section:

(1) 2008 NATURAL DISASTER.—The term "2008 natural disaster" means a major disaster that

the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that was caused by hurricanes, floods, and other natural disasters during calendar year 2008.

(2) AREA AFFECTED BY A 2008 NATURAL DISASTER.—The term "area affected by a 2008 natural disaster" means a county or parish that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of a 2008 natural disaster.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

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

## CHAPTER 8—MILITARY CONSTRUCTION

### DEPARTMENT OF DEFENSE

#### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for "Military Construction, Army National Guard", $25,000,000, to remain available until September 30, 2013, for construction due to damages as a result of natural disasters: *Provided*, That notwithstanding any other provision of law, such funds may

be obligated and expended to carry out planning and design and military contruction projects not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act, the Army National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

## CHAPTER 9—DEPARTMENT OF STATE AND FOREIGN OPERATIONS

### INTERNATIONAL COMMISSIONS

#### INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

#### CONSTRUCTION

For an additional amount for "Construction", for the water quantity program to meet immediate and emergency repair and rehabilitation requirements, $37,500,000, to remain available until expended: *Provided*, That up to $3,000,000 may be transferred to, and merged with, funds available under the heading "International Boundary and Water Commission—Salaries and Expenses": *Provided further*, That not later than 60 days after enactment of this Act, the Commission shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed spending plan for funds appropriated under this heading.

## CHAPTER 10—TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT

### DEPARTMENT OF TRANSPORTATION

#### FEDERAL HIGHWAY ADMINISTRATION

##### FEDERAL-AID HIGHWAYS

##### EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, $850,000,000, to remain available until expended: *Provided*, That notwithstanding section 125(d)(1) of such title, the Secretary of Transportation may obligate more than $100,000,000 for eligible expenses in a State in a fiscal year to respond to damage caused by Hurricanes Gustav and Ike.

#### FEDERAL RAILROAD ADMINISTRATION

##### RAILROAD REHABILITATION AND REPAIR

For necessary expenses for the Secretary of Transportation to make grants to repair and rehabilitate Class II and Class III railroad infrastructure damaged by hurricanes, floods, and other natural disasters in areas for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $20,000,000, to remain available until expended, and to be awarded to States on a competitive case-by-case basis based on need: *Provided*,

That funds available under this heading shall be available for repair and rehabilitation of railroad rights-of-way, bridges, signals, and other infrastructure which is part of the general railroad system of transportation and primarily used by railroads to move freight traffic: *Provided further*, That the maximum Federal share for carrying out a project under this heading shall be 80 percent of the project cost with the non-Federal share provided only in cash, equipment or supplies: *Provided further*, That the Secretary may retain up to one-half of 1 percent of the funds under this heading to fund the oversight by the Administrator of the Federal Railroad Administration of the design and implementation of projects funded by grants made under this heading: *Provided further*, That the provisions of section 24312 of title 49, United States Code, shall apply to grantees assisted under this heading: *Provided further*, That grantees must exhaust all other Federal and State resources prior to seeking assistance under this heading.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### PUBLIC AND INDIAN HOUSING

#### TENANT-BASED RENTAL ASSISTANCE

For an additional amount for "Tenant-Based Rental Assistance", as authorized under the United States Hous-

ing Act of 1937 (42 U.S.C. 1437 et seq.), not otherwise provided for, $85,000,000, to remain available until expended, for incremental housing assistance, including related administrative expenses, for persons assisted under the Disaster Housing Assistance Program whose assistance would otherwise end on March 1, 2009.

PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricanes Katrina and Rita for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), $50,000,000, to remain available until expended.

PUBLIC HOUSING CAPITAL FUND

For an additional amount to be made available to the Secretary of Housing and Urban Development, $15,000,000, notwithstanding any other provision of law, to be used solely for the redevelopment of public housing impacted by Hurricanes Katrina and Rita.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community Development Fund", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters

occuring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $6,500,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): *Provided*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under the Community Development Fund: *Provided further*, That each State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That $6,500,000 shall be available for use by the Assistant Secretary of Community Planning and Development for the administrative costs, including information technology costs, with respect to amounts made available under this section and under section 2301(a) of the Housing and Economic Recovery Act of 2008. *Provided further*, That not less than $650,000,000 from funds made available on a pro-rata basis according

to the allocation made to each State under this heading shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas where there is a demonstrated need as determined by the Secretary: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: *Provided further*, That a waiver granted by the Secretary under the preceding proviso may not reduce the percentage of funds which must be used for activities that benefit persons of low and moderate income to less than 50 percent, unless the Secretary specifically finds that there is compelling need to further reduce or eliminate the

percentage requirement: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the 2-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That the Secretary shall allocate to the states not less than 33 percent of the funding provided under this heading within 60 days after the enactment of this Act based on the best estimates available of relative damage and anticipated assistance from other Federal sources: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Sec-

retary shall notify the Committees on Appropriations of any proposed allocation of any funds and any related waivers made pursuant to the provisions under this heading no later than 5 days before such allocation or waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: *Provided further*, That none of the funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 11001. Section 7025 of Public Law 109–234 is amended by inserting "and nine months" after "two years".

SEC. 11002. The Secretary of Housing and Urban Development ("Secretary") is authorized to transfer, at the request of the project owner, any project-based assistance contract in its entirety entered into pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (and any use restriction on the project) from one project to another project. The Secretary shall make a determination of approval or disapproval within

60 days of receipt of the proper documentation required for such transfer, as determined by the Secretary, if—

(1) the project from which the contract is transferred is destroyed, damaged by Hurricanes Katrina or Rita, or is considered beyond repair, physically obsolete, or economically infeasible; and

(2) the number of individuals that can be served in the project to which the contract is transferred is approximately at least equal to the number of individuals that could be served in the project from which the contract is transferred, and any difference in the unit count and bedroom configuration between the two projects shall be immaterial to the Secretary's authority to transfer the contract.

SEC. 11003. Section 901 of Public Law 109–148 is amended by deleting "calendar years 2006 and 2007" and inserting "calendar years 2006, 2007, 2008, and 2009".

TITLE II—OTHER SUPPLEMENTAL APPROPRIATIONS

CHAPTER 1—STATE AND FOREIGN OPERATIONS

DEPARTMENT OF STATE

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", $9,000,000, which shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight, to remain available until September 30, 2010.

BILATERAL ECONOMIC ASSISTANCE

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", $465,000,000, to remain available until September 30, 2010, of which up to $5,000,000 may be made available for administrative expenses of the United States Agency for International Development, in addition to amounts otherwise made available for such purposes: *Provided*, That of the funds appropriated under this heading, $365,000,000 shall be made available for assistance for Georgia and the region for humanitarian and economic re-

lief, reconstruction, energy-related programs and democracy activities, and may be transferred to, and merged with, funds appropriated under the headings "Assistance for the Independent States of the Former Soviet Union" and "International Disaster Assistance", of which up to $8,000,000 may be transferred to, and merged with, funds made available for "International Broadcasting Operations" for broadcasting activities to Georgia, Russia and the region: *Provided further*, That none of the funds made available in prior Acts making appropriations for foreign operations, export financing, and related programs under the headings "Assistance for the Independent States of the Former Soviet Union" and "Assistance for Eastern Europe and the Baltic States", or funds appropriated for Iraq for the Community Stabilization Program under the heading "Economic Support Fund" in Public Law 110-252, may be reprogrammed for assistance for Georgia: *Provided further*, That of the funds appropriated under this heading, not less than $100,000,000 shall be made available for hurricane relief and reconstruction assistance for Haiti and other Caribbean countries: *Provided further*, That funds appropriated under this heading shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

## CHAPTER 2—AGRICULTURE

### BILL EMERSON HUMANITARIAN TRUST

SEC. 20201. There is hereby appropriated to the Secretary of Agriculture $100,000,000, to remain available until expended, to carry out the Bill Emerson Humanitarian Trust, as authorized by the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1).

## TITLE III—GENERAL PROVISIONS

### SHORT TITLE

SEC. 30001. This division may be cited as the "Disaster Relief and Recovery Supplemental Appropriations Act, 2008".

### EMERGENCY DESIGNATION

SEC. 30002. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

### COORDINATION OF PROVISIONS

SEC. 30003. Unless otherwise expressly provided, each amount in this Act is a supplemental appropriation for fiscal year 2008 or, if enacted after September 30, 2008, for fiscal year 2009.

# DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2009

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, for military functions administered by the Department of Defense and for other purposes, namely:

## TITLE I

## MILITARY PERSONNEL

### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $36,382,736,000.

### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of sta-

tion travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,037,553,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $11,792,974,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel

between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $25,103,789,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,904,296,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10,

United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,855,968,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $584,910,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,423,676,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for pay-

ments to the Department of Defense Military Retirement Fund, $6,616,220,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,741,768,000.

## TITLE II

## OPERATION AND MAINTENANCE

### OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of

the Army, and payments may be made on his certificate of necessity for confidential military purposes, $31,207,243,000: *Provided,* That of the funds made available under this heading, $2,500,000 shall be available for Fort Baker, in accordance with terms and conditions as provided under the heading "Operation and Maintenance, Army", in Public Law 107–117.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $14,657,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $34,410,773,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $5,519,232,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be ex-

pended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $34,865,964,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $25,939,466,000: *Provided,* That not more than $50,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: *Provided further,* That not to exceed $36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further,* That of the funds provided under this heading, not less than $29,900,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): *Provided further,* That none of the funds appropriated or otherwise made available by this Act may be used to plan

or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further,* That, notwithstanding section 130(a) of title 10, United States Code, not less than $46,970,000 shall be available for the Office of the Undersecretary of Defense, Comptroller and Chief Financial Officer: *Provided further,* That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further,* That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,628,896,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,308,141,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $212,487,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $3,018,151,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $5,858,303,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $5,901,044,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $13,254,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $457,776,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $290,819,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such

funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $496,277,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations

made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $13,175,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not nec-

essary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $291,296,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this

heading is in addition to any other transfer authority provided elsewhere in this Act.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 407, 2557, and 2561 of title 10, United States Code), $83,273,000, to remain available until September 30, 2010.

COOPERATIVE THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $434,135,000, to remain available until September 30, 2011: *Provided*, That of the amounts provided under this heading, $12,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reac-

tor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

## TITLE III

## PROCUREMENT

### AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,900,835,000, to remain available for obligation until September 30, 2011.

### MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including

the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,185,060,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $3,169,128,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,287,398,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $262,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized

equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $10,684,014,000, to remain available for obligation until September 30, 2011.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $14,141,318,000, to remain available for obligation until September 30, 2011.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $3,292,972,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private

plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,085,158,000, to remain available for obligation until September 30, 2011.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program, $2,692,607,000;

Carrier Replacement Program (AP), $1,214,188,000;

NSSN, $2,107,040,000;

NSSN (AP), $1,395,548,000;

CVN Refueling, $593,534,000;

CVN Refuelings (AP), $21,389,000;

SSBN Submarine Refuelings, $221,823,000;

SSBN Submarine Refuelings (AP), $39,363,000;

DDG–1000 Program, $1,508,803,000;

DDG–51 Destroyer (AP), $200,000,000;

Littoral Combat Ship, $1,020,000,000;

LPD–17, $933,216,000;

LHA–R (AP), $178,300,000;

Intratheater Connector, $174,782,000;

LCAC Service Life Extension Program, $110,918,000;

Prior year shipbuilding costs, $165,152,000;

Service Craft, $48,117,000; and

For outfitting, post delivery, conversions, and first destination transportation, $429,587,000.

In all: $13,054,367,000, to remain available for obligation until September 30, 2013: *Provided*, That additional obligations may be incurred after September 30, 2013, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none

of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of seven vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $262,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,250,627,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant

equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,376,917,000, to remain available for obligation until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things,

$13,112,617,000, to remain available for obligation until September 30, 2011.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,442,428,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be ac-

quired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $859,466,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of two vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $262,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway,

$16,052,569,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $3,306,269,000, to remain available for obligation until September 30, 2011.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $750,000,000, to remain available for obligation until September 30, 2011, of which $480,000,000 shall be available only for the Army National Guard: *Provided,* That the Chiefs of the Reserve and National Guard components

shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $100,565,000, to remain available until expended.

## TITLE IV

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $12,060,111,000, to remain available for obligation until September 30, 2010.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,764,276,000, to remain avail-

able for obligation until September 30, 2010: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $27,084,340,000, to remain available for obligation until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,423,338,000, to remain available for obligation until September 30, 2010: *Provided,* That of the amount available under this heading for the Prompt Global Strike Ca-

pability Development program, not less than one-fourth shall be available for the Army Advanced Hypersonic Weapon initiative.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $188,772,000, to remain available for obligation until September 30, 2010.

## TITLE V

## REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $1,489,234,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security

needs of the United States, $1,666,572,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

# TITLE VI

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

### DEFENSE HEALTH PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense as authorized by law, $25,825,832,000, of which $1,300,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund; of which $24,611,369,000 shall be for operation and maintenance, of which not to exceed one percent shall remain available until September 30, 2010, and of which up to $13,217,751,000 may be available for contracts entered into under the TRICARE program; of which $311,905,000, to remain available for obligation until September 30, 2011, shall be for procurement; and of which $902,558,000, to remain available for obligation until September 30, 2010, shall be for research, development, test and evaluation: *Provided,* That, notwithstanding any other provision of law, of the amount made available under this heading for research, development, test and evaluation, not less than $8,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian

assistance activities conducted primarily in African nations.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,505,634,000, of which $1,152,668,000 shall be for operation and maintenance, of which no less than $103,198,000, shall be for the Chemical Stockpile Emergency Preparedness Program, consisting of $33,411,000 for activities on military installations and $69,787,000, to remain available until September 30, 2010, to assist State and local governments; $64,085,000 shall be for procurement, to remain available until September 30, 2011, of which no less than $26,428,000 shall be for the Chemical Stockpile Emergency Preparedness Program to assist State and local governments; and $288,881,000, to remain available until September 30, 2010, shall be for research, development, test and evaluation, of which

$283,219,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for operation and maintenance; for procurement; and for research, development, test and evaluation, $1,096,743,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the In-

spector General Act of 1978, as amended, $271,845,000, of which $270,445,000 shall be for operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,400,000, to remain available until September 30, 2011, shall be for procurement.

## TITLE VII

## RELATED AGENCIES

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $279,200,000.

### INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $710,042,000: *Provided,* That of the funds appropriated under this heading, $44,000,000 shall be transferred to the Department of Justice, of which $2,000,000 shall be for reimbursement

of Air Force personnel for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities: *Provided further,* That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

## TITLE VIII

## GENERAL PROVISIONS

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

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is

computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

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

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $4,100,000,000

of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2009: *Provided further*, That transfers among

military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section: *Provided further*, That no obligation of funds may be made pursuant to section 1206 of Public Law 109–163 (or any successor provision) unless the Secretary of Defense has notified the congressional defense committees prior to any such obligation.

SEC. 8006. (a) With regard to the list of specific programs, projects, and activities (and the dollar amounts and adjustments to budget activities corresponding to such programs, projects, and activities) contained in the tables titled "Explanation of Project Level Adjustments" in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), the obligation and expenditure of amounts appropriated or otherwise made available in this Act for those programs, projects, and activities for which the amounts appropriated exceed the amounts requested are hereby required by law to be carried out in the manner provided by such tables to the same extent as if the tables were included in the text of this Act.

(b) Amounts specified in the referenced tables described in subsection (a) shall not be treated as subdivisions of appropriations for purposes of section 8005 of this

Act: *Provided,* That section 8005 shall apply when transfers of the amounts described in subsection (a) occur between appropriation accounts.

SEC. 8007. (a) Not later than 60 days after enactment of this Act, the Department of Defense shall submit a report to the congressional defense committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2009: *Provided*, That the report shall include—

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation both by budget activity and program, project, and activity as detailed in the Budget Appendix; and

(3) an identification of items of special congressional interest.

(b) Notwithstanding section 8005 of this Act, none of the funds provided in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional defense committees, unless the Secretary of Defense certifies in

writing to the congressional defense committees that such reprogramming or transfer is necessary as an emergency requirement.

SEC. 8008. The Secretaries of the Air Force and the Army are authorized, using funds available under the headings "Operation and Maintenance, Air Force" and "Operation and Maintenance, Army", to complete facility conversions and phased repair projects which may include upgrades and additions to Alaskan range infrastructure and training areas, and improved access to these ranges.

(TRANSFER OF FUNDS)

SEC. 8009. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except

in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8010. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in advance to the congressional defense committees.

SEC. 8011. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*,

That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract and, in the case of a contract for procurement of aircraft, that includes, for any aircraft unit to be procured through the contract for which procurement funds are requested in that budget request for production beyond advance procurement activities in the fiscal year covered by the budget, full funding of procurement of such unit in that fiscal year;

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

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

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

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

SSN Virginia class submarine.

SEC. 8012. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds avail-

able for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8013. (a) During fiscal year 2009, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2010 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2010

Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2010.

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

SEC. 8014. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8015. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this section shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this section applies only to active components of the Army.

SEC. 8016. (a) None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this

Act, is performed by more than 10 Department of Defense civilian employees unless—

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

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

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

(B) $10,000,000; and

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

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

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

(b)(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

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

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e)

of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

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

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

(TRANSFER OF FUNDS)

SEC. 8017. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the

authority of this provision or any other transfer authority contained in this Act.

SEC. 8018. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appro-

priations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8020. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, $15,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code, shall be considered a con-

tractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code.

SEC. 8022. Funds appropriated by this Act for the Defense Media Activity shall not be used for any national or international political or psychological activities.

SEC. 8023. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or

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

SEC. 8024. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8025. (a) Of the funds made available in this Act, not less than $34,929,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $26,605,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $7,435,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) $889,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for

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

SEC. 8026. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2009 may be used by a defense FFRDC,

through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2009, not more than 5,600 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,100 staff years may be funded for the defense studies and analysis FFRDCs: *Provided further*, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP) and the Military Intelligence Program (MIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2010 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year and the associated budget estimates.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $84,000,000.

SEC. 8027. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8028. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Sub-

committee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8029. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8030. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall

rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2009. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

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

SEC. 8031. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8032. (a) Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting re-

quests to the Secretary of the Air Force under subsection (b).

(d) In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8033. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8034. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current

fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2010 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2010 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2010 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8035. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2010: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development ac-

quisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2010.

SEC. 8036. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8037. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $12,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8038. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this

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

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

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8039. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on

the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

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

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8040. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

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

(c) This section does not apply to—

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

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8041. The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to

make grants and supplement other Federal funds in accordance with the guidance provided in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

(RESCISSIONS)

SEC. 8042. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Aircraft Procurement, Army", 2008/2010, $174,600,000;

"Procurement of Ammunition, Army", 2008/2010, $69,200,000;

"Shipbuilding and Conversion, Navy", 2008/2012, $337,000,000;

"Research, Development, Test and Evaluation, Army", 2008/2009, $49,800,000;

"Research, Development, Test and Evaluation, Air Force", 2008/2009, $300,073,000;

"Research, Development, Test and Evaluation, Defense-Wide", 2008/2009, $150,000,000; and

"Tanker Replacement Transfer Fund, Air Force", $239,800,000.

SEC. 8043. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard,

Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8044. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of Korea unless specifically appropriated for that purpose.

SEC. 8045. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8046. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce

the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003, level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8047. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

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

SEC. 8048. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of

the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8049. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8050. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That

this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8051. (a) Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

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

(c) A notice under subsection (a) shall include the following—

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

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

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8052. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

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

(2) such bonus is part of restructuring costs associated with a business combination.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8053. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8054. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

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

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8055. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard

Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8056. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8057. None of the funds appropriated in title IV of this Act may be used to procure end-items for deliv-

ery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8058. Notwithstanding any other provision of law, funds available to the Department of Defense in this Act, and hereafter, shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8059. None of the funds made available in this Act may be used to approve or license the sale of the F–22A advanced tactical fighter to any foreign government.

SEC. 8060. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

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

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

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff

Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8061. (a) None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose

and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8062. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8063. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing

units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8064. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project or joint capability demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8065. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8066. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more

than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8067. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32, United States Code, may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8068. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an

entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8069. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal nonprofit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8070. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for

resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8071. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8072. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", $47,700,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law,

the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects carrying out the purposes of this section: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8073. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2009.

SEC. 8074. In addition to amounts provided elsewhere in this Act, $8,000,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided,* That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only

for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8075. (a) During the current fiscal year and hereafter, the Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8076. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $177,237,000 shall be for the Israeli Cooperative Programs: *Provided*, That of this amount, $72,895,000 shall be for the Short Range Ballistic Missile Defense (SRBMD) program, $30,000,000

shall be available for an upper-tier component to the Israeli Missile Defense Architecture, and $74,342,000 shall be for the Arrow Missile Defense Program, of which $13,076,000 shall be for producing Arrow missile components in the United States and Arrow missile components in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8077. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $165,152,000 shall be available until September 30, 2009, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available

for the same purposes as the appropriations to which transferred:

To:

Under the heading "Shipbuilding and Conversion, Navy, 2001/2009":

Carrier Replacement Program, $20,516,000;

Under the heading "Shipbuilding and Conversion, Navy, 2002/2009":

New SSN, $21,000,000;

Under the heading "Shipbuilding and Conversion, Navy, 2003/2009":

LPD–17 Amphibious Transport Dock Program, $33,082,000;

Under the heading "Shipbuilding and Conversion, Navy, 2004/2009":

New SSN, $60,000,000;

Under the heading "Shipbuilding and Conversion, Navy, 2007/2011":

LHA Replacement Program, $14,310,000; and

Under the heading "Shipbuilding and Conversion, Navy, 2008/2012":

SSBN Submarine Refuelings, $16,244,000.

SEC. 8078. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command

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

SEC. 8079. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code, for occupations listed in section 7403(a)(2) of title 38, United States Code, as well as the following:

Pharmacists, Audiologists, Psychologists, Social Workers, Othotists/Prosthetists, Occupational Therapists, Physical Therapists, Rehabilitation Therapists, Respiratory Therapists, Speech Pathologists, Dietitian/Nutritionists, Industrial Hygienists, Psychology Technicians, Social Service Assistants, Practical Nurses, Nursing Assistants, and Dental Hygienists:

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

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

SEC. 8080. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2009 until the enactment of the Intelligence Authorization Act for Fiscal Year 2009.

SEC. 8081. None of the funds provided in this Act shall be available for obligation or expenditure through a reprogramming of funds that creates or initiates a new program, project, or activity unless such program, project, or activity must be undertaken immediately in the interest of national security and only after written prior notification to the congressional defense committees.

SEC. 8082. (a) In addition to the amounts provided elsewhere in this Act, $3,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $3,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Vet-

erans Employment, a nonprofit labor-management cooperation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8083. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further*, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this

appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): *Provided further,* That up to $300,000 shall be available to examine human capital, family and quality of life issues relating to military presence in Hawaii: *Provided further*, That up to $2,000,000 shall be available for the Department of Defense to establish a nonprofit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to nonprofit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: *Provided further*, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8084. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $112,400,000 is hereby appropriated to the Department of Defense: *Provided,* That the Secretary of Defense shall

make grants in the amounts specified as follows: $20,000,000 to the United Service Organizations; $30,000,000 to the Red Cross; $15,000,000 for the Waterbury Industrial Commons Redevelopment Project; $4,750,000 for the SOAR Virtual School District; $1,750,000 to The Presidio Trust; $5,000,000 to the STEM Education Research Center; $10,000,000 to the Intrepid Museum Foundation; $4,000,000 to the Go For Broke National Education Center; $9,900,000 to the U.S.S. Missouri Memorial Association; $4,000,000 to the Nimitz Center; $3,000,000 to Special Olympics International; and $5,000,000 to the Paralympics Military Program.

SEC. 8085. The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon (NLOS–C) and a compatible large caliber ammunition resupply capability for this system supported by the Future Combat Systems (FCS) Brigade Combat Team (BCT) in order to field this system in fiscal year 2010: *Provided*, That the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition, the Army will deliver five pre-production NLOS–C systems by the end of calendar year 2008 and three pre-

production NLOS–C systems by the end of calendar year 2009. These systems shall be in addition to those systems necessary for developmental and operational testing.

SEC. 8086. The budget of the President for fiscal year 2010 submitted to the Congress pursuant to section 1105 of title 31, United States Code, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency op-

erations for the budget year and the two preceding fiscal years.

SEC. 8087. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8088. Up to $2,500,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8089. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8090. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8091. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

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

(INCLUDING TRANSFER OF FUNDS)

SEC. 8092. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated

in law: *Provided*, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committees on Appropriations of the House of Representatives and the Senate, unless a response from the Committees is received sooner: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8093. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading "Shipbuilding and Conversion, Navy" that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in the current fiscal year or any prior fiscal year.

SEC. 8094. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the MQ–1C Sky Warrior Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

(c) None of the funds appropriated by this Act may be used to institute an inter-Service common contract for acquisition of MQ–1 or MQ–1C UAVs until 30 days after the Secretary of Defense certifies to the congressional defense committees that a common contract would achieve cost savings, be interoperable with, and not create undue sustainment costs compared to the current fleet.

SEC. 8095. None of the funds appropriated by this Act, and hereafter, available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided,* That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code,

provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8096. Of the funds provided in this Act, $10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training and Education Center and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other Federal agencies, and State and local first responder personnel at the Joint Interagency Training and Education Center.

SEC. 8097. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8098. The authority to conduct a continuing cooperative program in the proviso in title II of Public Law 102–368 under the heading "Research, Development, Test and Evaluation, Defense Agencies" (106 Stat. 1121) shall be extended through September 30, 2009 and hereafter, in cooperation with NELHA.

SEC. 8099. Up to $15,000,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" may be made available for the Asia Pacific Regional Initiative Program for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance, and payment of incremental and personnel costs of training and exercising with foreign security forces: *Provided*, That funds made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance or combined exercise expenses: *Provided further*, That funds may not be obligated to provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

SEC. 8100. None of the funds appropriated by this Act for programs of the Office of the Director of National Intelligence shall remain available for obligation beyond the current fiscal year, except for funds appropriated for

research and technology, which shall remain available until September 30, 2010.

SEC. 8101. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions, the total amount appropriated in title II of this Act is hereby reduced by $313,780,000, the total amount appropriated in title III of this Act is hereby reduced by $298,000,000, and the total amount appropriated in title IV of this Act is hereby reduced by $218,000,000: *Provided*, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, subactivity group, and each program, project, and activity, within each appropriation account.

SEC. 8102. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8103. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated

under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8104. The Secretary of Defense shall create a major force program category for space for the Future Years Defense Program of the Department of Defense. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

SEC. 8105. During the current fiscal year and hereafter, none of the funds appropriated or otherwise available to the Department of Defense may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

SEC. 8106. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

SEC. 8107. Beginning with the fiscal year 2010 budget request, the Director of National Intelligence shall include the budget exhibits identified in paragraphs (1) and (2) as described in the Department of Defense Financial Management Regulation with the congressional budget justification books.

(1) For procurement programs requesting more than $20,000,000 in any fiscal year, the P–1, Procurement Program; P–5, Cost Analysis; P–5a, Procurement History and Planning; P–21, Production Schedule; and P–40 Budget Item Justification.

(2) For research, development, test and evaluation projects requesting more than $10,000,000 in any fiscal year, the R–1, RDT&E Program; R–2, RDT&E Budget Item Justification; R–3, RDT&E Project Cost Analysis; and R–4, RDT&E Program Schedule Profile.

SEC. 8108. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

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

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 8109. Notwithstanding any other provision of law, none of the funds made available in this Act may be used to pay negotiated indirect cost rates on a contract, grant, or cooperative agreement (or similar arrangement) entered into by the Department of Defense and an entity in excess of 35 percent of the total cost of the contract, grant, or agreement (or similar arrangement): *Provided,* That this limitation shall apply only to contracts, grants, or cooperative agreements entered into after the date of the enactment of this Act using funds made available in this Act for basic research.

SEC. 8110. The Secretary of Defense shall maintain on the homepage of the Internet website of the Department of Defense a direct link to the Internet website of the Office of Inspector General of the Department of Defense.

SEC. 8111. (a) Not later than 60 days after enactment of this Act, the Office of the Director of National Intelligence shall submit a report to the congressional intelligence committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2009: *Provided,* That the report shall include—

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation by Expenditure Center and project; and

(3) an identification of items of special congressional interest.

for the National Intelligence Program

(b) None of the funds provided in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional intelligence committees, unless the Director of National Intelligence certifies in writing to the congressional

intelligence committees that such reprogramming or transfer is necessary as an emergency requirement.

SEC. 8112. The Director of National Intelligence shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, United States Code, a future-years intelligence program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years intelligence program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

SEC. 8113. For the purposes of this Act, the term "congressional intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Defense of the Committee on Appropriations of the Senate.

SEC. 8114. The Department of Defense shall continue to report incremental contingency operations costs for Operation Iraqi Freedom and Operation Enduring Freedom on a monthly basis in the Cost of War Execution Report as prescribed in the Department of Defense Finan-

cial Management Regulation Department of Defense Instruction 7000.14, Volume 12, Chapter 23 "Contingency Operations", Annex 1, dated September 2005.

SEC. 8115. HORSHAM JOINT INTERAGENCY INSTALLATION.—

(a) ESTABLISHMENT OF INSTALLATION.—The Horsham Joint Interagency Installation located in Horsham Township, Montgomery County, Pennsylvania is hereby established. Pursuant to Section 3703 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act (121 Stat. 145), at a time determined by the Secretary of the Navy, or upon completion of the associated Defense Base Closure and Realignment Commission recommendations, the Secretary of the Navy shall, notwithstanding any other provision of law, transfer to the Secretary of the Air Force, at no cost, all designated lands, easements, Air Installation Compatible Use Zones, and facilities at NASJRB Willow Grove. The airfield at the Horsham Joint Interagency Installation shall be known as "Pitcairn-Willow Grove field".

(b) TRANSFER TO COMMONWEALTH OF PENNSYLVANIA.—Notwithstanding any other provision of law, the Secretary of the Air Force shall convey all of the Navy property transferred to the Air Force, as well as excess

Air Force property at the Willow Grove Air Reserve Station, to the Commonwealth of Pennsylvania, at no cost, for operation of the Horsham Joint Interagency Installation so long as it is used continuously as the Horsham Joint Interagency Installation. In the event the property is no longer used for the Horsham Joint Interagency Installation, it shall revert to the Department of Defense. Installation property conveyed to the Commonwealth of Pennsylvania may not be reconveyed, but may be leased, subleased, or licensed by the Commonwealth, for any agreed upon term, for use by the United States, its agencies or instrumentalities, at terms agreeable to the United States, or to State or local government agencies, or other associated users.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8116. (a) STOP-LOSS SPECIAL PAY.—In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $72,000,000 is hereby appropriated to the Secretary of Defense to carry out this section. Such amount shall be made available to the Secretaries of the military departments only to provide special pay during fiscal year 2009 to members of the Army, Navy, Air Force, and Marine Corps, including members of their reserve components who at any time during fiscal year 2009, serve on active duty while the members' enlistment or period of obligated service is extended, or whose

eligibility for retirement is suspended, pursuant to section 123 or 12305 of title 10, United States Code, or any other provision of law (commonly referred to as a "stop-loss authority") authorizing the President to extend an enlistment or period of obligated service, or suspend an eligibility for retirement, of a member of the uniformed services in time of war or of national emergency declared by Congress or the President.

(b) SPECIAL PAY AMOUNT.—The amount of the special pay paid under subsection (a) to or on behalf of an eligible member may not exceed $500 per month for each month or portion of a month during fiscal year 2009 that the member is retained on active duty as a result of application of the stop-loss authority.

(c) IMPLEMENTATION PLAN.—Before obligating or expending any of the funds made available under subsection (a), the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report containing a plan for the provision of the special pay authorized by this section.

SEC. 8117. Section 3287 of title 18, United States Code, is amended—

(1) by inserting "or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Pow-

ers Resolution (50 U.S.C. 1544(b))," after "is at war";

(2) by inserting "or directly connected with or related to the authorized use of the Armed Forces" after "prosecution of the war";

(3) by striking "three years" and inserting "5 years";

(4) by striking "proclaimed by the President" and inserting "proclaimed by a Presidential proclamation, with notice to Congress,"; and

(5) by adding at the end the following: "For purposes of applying such definitions in this section, the term 'war' includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).".

SEC. 8118. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking "For purposes" and inserting "Except as provided in section 3112A, for purposes"; and

(2) by inserting after section 3112 the following:

**"SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.**

"(a) DEFINITIONS.—In this section:

"(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

"(2) DOWNBLENDING.—The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

"(3) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

"(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

"(A) contains 90 percent or more uranium-235; and

"(B) is verified by the Secretary of Energy to be of weapons origin.

"(5) LOW-ENRICHED URANIUM.—The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride ($UF_6$) and uranium oxide ($UO_2$), in which the uranium contains less than 20 percent uranium-235, including natural uranium, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

"(6) RUSSIAN HEU AGREEMENT.—The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

"(7) URANIUM-235.—The term 'uranium-235' means the isotope $^{235}U$.

"(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

"(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

"(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Rus-

sian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement, may not exceed the following amounts:

"(A) In the 4-year period beginning with calendar year 2008, 16,559 kilograms.

"(B) In calendar year 2012, 24,839 kilograms.

"(C) In calendar year 2013 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, 41,398 kilograms.

"(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

"(A) IN GENERAL.—After the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether

or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

"(i) in calendar year 2014, 485,279 kilograms;

"(ii) in calendar year 2015, 455,142 kilograms;

"(iii) in calendar year 2016, 480,146 kilograms;

"(iv) in calendar year 2017, 490,710 kilograms;

"(v) in calendar year 2018, 492,731 kilograms;

"(vi) in calendar year 2019, 509,058 kilograms; and

"(vii) in calendar year 2020, 514,754 kilograms.

"(B) ADDITIONAL IMPORTS IN EXCHANGE FOR A COMMITMENT TO DOWNBLEND AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—

"(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), if the Russian Federation en-

ters into a bilateral agreement with the United States under which the Russian Federation agrees to downblend an additional 300 metric tons of highly enriched uranium after the completion of the Russian HEU Agreement, 4 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin and including low-enriched uranium obtained under contracts for separative work units, may be imported in a calendar year for every 1 kilogram of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

"(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 120,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

"(3) EXCEPTIONS.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States—

"(A) for use in the initial core of a new nuclear reactor;

"(B) for processing and to be certified for reexportation and not for consumption in the United States; or

"(C) to be added to the inventory of the Department of Energy.

"(4) LIMITED WAIVER AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(C), if the completion of the Russian HEU Agreement does not occur before December 31, 2013, the import limitations under paragraph (1)(C) shall be waived, and low-enriched uranium may be imported into the United States in the quantities specified in paragraph (2) in a calendar year after 2013, if—

"(i) the Secretary of Energy and the Secretary of State jointly determine that—

"(I) the failure of the completion of the Russian HEU Agreement arises from causes beyond the control and without the fault or negligence of the Government of the Russian Federation; and

"(II) the Government of the Russian Federation has made reasonable efforts to avoid and mitigate the effects of the failure of the completion of the Russian HEU Agreement; and

"(ii) the Secretary of Energy and the Secretary of State jointly notify Congress of, and publish in the Federal Register, the determination under clause (i) and the reasons for the determination.

"(B) NOTICE AND WAIT.—A waiver under subparagraph (A) may not take effect until the date that is 180 days after the date on which Secretary of Energy and the Secretary of State notify Congress under subparagraph (A)(ii).

"(C) TERMINATION.—A waiver under subparagraph (A) shall terminate on December 31 of the calendar year with respect to which the Secretary makes the determination under subparagraph (A)(i).

"(5) ADJUSTMENTS TO IMPORT LIMITATIONS.—

"(A) IN GENERAL.—The import limitations described in paragraph (2)(A) are based on the reference data in the 2005 Market Report on the Global Nuclear Fuel Market Supply

and Demand 2005–2030 of the World Nuclear Association. In each of calendar years 2016 and 2019, the Secretary of Commerce shall review the projected demand for uranium for nuclear reactors in the United States and adjust the import limitations described in paragraph (2)(A) to account for changes in such demand in years after the year in which that report or a subsequent report is published.

"(B) INCENTIVE ADJUSTMENT.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2)(B) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy

Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

"(C) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustments under subparagraph (B).

"(6) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the adjustment under paragraph (5)(A), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

"(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

"(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

"(7) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

"(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

"(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2), including low-enriched uranium obtained under contracts for separative work units, shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

"(8) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

"(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph

(2)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

"(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

"(9) TERMINATION OF IMPORT RESTRICTIONS.—The provisions of this subsection shall terminate on December 31, 2020.

"(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

"(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B) and (8).

"(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures and access provisions agreed to under the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

"(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

"(12) EFFECT ON OTHER AGREEMENTS.—

"(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating

to the amount of low-enriched uranium that may be imported into the United States.

"(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.".

SEC. 8119. The amounts appropriated in title II of this Act are hereby reduced by $859,000,000 to reflect excess cash balances in Department of Defense Working Capital Funds, as follows:

(1) From "Operation and Maintenance, Army", $823,000,000; and

(2) From "Operation and Maintenance, Air Force", $36,000,000.

This division may be cited as the "Department of Defense Appropriations Act, 2009".

Xerox

DIVISION D—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2009

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2009, and for other purposes, namely:

TITLE I

~~DEPARTMENT OF HOMELAND SECURITY~~

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $123,456,000: *Provided*, That not to exceed $60,000 shall be for official reception and representation expenses, of which $20,000 shall be made available to the Office of Policy solely to host Visa Waiver Program negotiations in Washington, DC: *Provided further*, That within 15 days after the end of each quarter of the fiscal year, the Secretary shall submit to the Committees on Appropriations of the Senate and House of Representatives and to the Government Accountability Of-

fice a report of each instance where a request by the Government Accountability Office for access to Department of Homeland Security records was not granted within 20 calendar days and Government Accountability Office requests for interviews with Department of Homeland Security employees were not granted within seven calendar days: *Provided further,* That $15,000,000 shall not be available for obligation until the second quarterly report detailed in the previous proviso is submitted to the Committees on Appropriations of the Senate and House of Representatives: *Provided further,* That $10,000,000 shall not be available for obligation until the Secretary of Homeland Security, in coordination with the Administrator of the Federal Emergency Management Agency, certifies to the Committees on Appropriations of the Senate and the House of Representatives that processes to incorporate stakeholder input for grant guidance development and award distribution have been: (1) developed to ensure transparency and increased consultation about security needs for all-hazards; (2) formalized and made clear to stakeholders; and (3) formalized to ensure future use for each fiscal year.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701

through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $191,793,000, of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That of the total amount, $6,000,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations at the Nebraska Avenue Complex; and $17,131,000 shall remain available until expended for the Human Resources Information Technology program.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $55,235,000, of which $11,000,000 shall remain available until expended for financial systems consolidation efforts.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $272,169,000; of which $86,928,000 shall be available for salaries and expenses; and of which $185,241,000, to remain available until expended, shall be available for development and ac-

quisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, of which not less than $23,830,000 shall be available for data center development and an additional $22,300,000 shall be available to support costs of transition to the National Center for Critical Information Processing and Storage: *Provided,* That $100,000,000 of the total amount appropriated under this heading shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive the report on data center transition: *Provided further,* That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology acquisition projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided further*, That such expenditure plan shall include each specific project funded, key milestones, all funding

sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $327,373,000, of which not to exceed $5,000 shall be for official reception and representation expenses; and of which $215,745,000 shall remain available until September 30, 2010.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $1,900,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $98,513,000, of which not to exceed $150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

# TITLE II

# SECURITY, ENFORCEMENT, AND INVESTIGATIONS

## U.S. Customs and Border Protection

### SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, agricultural inspections and regulatory activities related to plant and animal imports, and transportation of unaccompanied minor aliens; purchase and lease of up to 6,300 (3,300 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $7,603,206,000, of which $3,154,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $271,679,000 shall be for Air and Marine Operations; of which $4,500,000 shall be for the 2010 Olympics Coordination Center, of which not to exceed $2,000,000 shall be available until September 30, 2010; of which $2,000,000 shall be for Project

SeaHawk; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: *Provided*, That for fiscal year 2009, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further,* That no funding available under this heading may be obligated for the operation of the Analytical Framework for Intelligence Officers until the Commissioner of U.S. Customs and Border Protection cer-

tifies that this Framework complies with all applicable laws, including section 552a of title 5, United States Code, and other laws protecting privacy, and such certification is reviewed by the Inspector General of the Department of Homeland Security: *Provided further,* That the Commissioner shall submit to the Committees on Appropriations of the Senate and the House of Representatives the results of operational field testing of cargo container security devices in high risk trade lanes no later than 120 days after enactment of this Act.

THE DATE OF

AUTOMATION MODERNIZATION

For expenses for U.S. Customs and Border Protection automated systems, $511,334,000, to remain available until expended, of which not less than $316,851,000 shall be for the development of the Automated Commercial Environment: *Provided,* That of the total amount made available under this heading, $216,851,000 may not be obligated for the Automated Commercial Environment program until 30 days after the Committees on Appropriations of the Senate and the House of Representatives receive a report on the results to date and plans for the program from the Department of Homeland Security.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $775,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading, $400,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted not later than 90 days after the date of the enactment of this Act, for a program to establish and maintain a security barrier along the borders of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that includes the following—

(1) a detailed accounting of the program's implementation to date for all investments, including technology and tactical infrastructure, for funding already expended relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, program management capabilities, identification of the maximum investment, including lifecycle costs, related to the Secure Border Initiative program or any suc-

cessor program, and description of the methodology used to obtain these cost figures;

(2) a description of how specific projects will further the objectives of the Secure Border Initiative, as defined in the Department of Homeland Security Secure Border Plan, and how the expenditure plan allocates funding to the highest priority border security needs;

(3) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(4) an identification of staffing, including full-time equivalents, contractors, and detailees, by program office;

(5) a description of how the plan addresses security needs at the Northern border and ports of entry, including infrastructure, technology, design and operations requirements, specific locations where funding would be used, and priorities for Northern border activities;

(6) a report on budget, obligations and expenditures, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(7) a listing of all open Government Accountability Office and the Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones to fully address such recommendations;

(8) a certification by the Chief Procurement Officer of the Department that the program: (a) has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including as provided in Circular A–11, part 7; (b) that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with such actions, together with any plans for addressing these risks, and the status of the im-

plementation of such actions; (c) that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and that the Secure Border Initiative Program Office has adequate staff and resources to effectively manage the Secure Border Initiative program, all contracts, including the exercise of technical oversight; and (d) the certifications required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certifications;

(9) a certification by the Chief Information Officer of the Department that: (a) the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment together with the associated risks and corrective actions to address any such areas; (b) the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and mon-

itors risks throughout the system life cycle and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment decision-makers, as well as a listing of all the program's high risks and the status of efforts to address such risks; (c) an independent verification and validation agent is currently under contract for the projects funded under this heading; (d) and the certification required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certification;

(10) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the Secure Border Initiative program are being addressed so as to ensure adequate staff and resources to effectively manage the Secure Border Initiative, together with a description of SBI staffing priorities;

(11) an analysis by the Secretary for each segment, defined as not more than 15 miles, of fencing or tactical infrastructure, of the selected approach compared to other, alternative means of achieving operational control, and such analysis should include

cost, level of operational control, possible unintended effects on communities, and other factors critical to the decision making process; and

(12) is reviewed by the Government Accountability Office:

*Provided further*, That the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives on program progress, and obligations and expenditures for all outstanding task orders as well as specific objectives to be achieved through the award of current and remaining task orders planned for the balance of available appropriations at least 15 days before the award of any task order requiring an obligation of funds in an amount greater than $25,000,000 and before the award of a task order that would cause cumulative obligations of funds to exceed 50 percent of the total amount appropriated: *Provided further*, That none of the funds provided under this heading may be obligated unless the Department has complied with section 102(b)(1)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), and the Secretary ~~of Homeland Security~~ certifies such to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That none of the funds under this heading may be obligated for any project or

activity for which the Secretary has exercised waiver authority pursuant to section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) until 15 days have elapsed from the date of the publication of the decision in the Federal Register: *Provided further,* That notwithstanding the previous provisos, $100,000,000 of the amount provided under this heading shall be made available for obligation upon enactment of this Act without restriction.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aircraft systems, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $528,000,000, to remain available until ex-

pended, of which $5,000,000 shall be to address private aircraft enforcement system noncompliance as specified in House Report 110–862: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S. Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2009 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That of the total amount made available under this heading, $18,000,000 shall not be obligated until the Secretary notifies the Committees on Appropriations of the Senate and House of Representatives that the Department of Homeland Security has implemented the concept of operations described in section 544 of this Act.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $403,201,000, to remain available until expended, of which $39,700,000 shall be for the Advanced Training Center: *Provided,* That for fiscal year 2010 and thereafter, the annual budget submis-

sion of U.S. Customs and Border Protection for "Construction" shall, in consultation with the General Services Administration, include a detailed 5-year plan for all Federal land border port of entry projects with a yearly update of total projected future funding needs.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $4,927,210,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $305,000 shall be for promotion of public awareness of the child pornography tipline and anti-child exploitation activities; of which not less than $5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available

to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled aliens unlawfully present in the United States: *Provided,* That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary ~~of Homeland Security~~, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further,* That of the total amount provided, $15,770,000 shall be for activities in fiscal year 2009 to enforce laws against forced child labor, of which not to exceed $6,000,000 shall remain available until expended: *Provided further,* That of the total amount available, not less than $1,000,000,000, of which $150,000,000 shall remain available until September 30, 2010, shall be available to identify aliens convicted of a crime, and who may be deportable, and to remove them from the United States once they are judged deportable: *Provided further,* That the Secretary ~~of Homeland Security~~ or a designee of the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, at least quarterly, on progress implementing the preceding proviso, and the funds obligated during that quarter to make that progress: *Provided fur-*

*ther,* That the Secretary ~~of Homeland Security~~ shall prioritize the identification and removal of aliens convicted of a crime by the severity of that crime: *Provided further*, That of the total amount provided, not less than $2,481,213,000 is for detention and removal operations, including transportation of unaccompanied minor aliens: *Provided further,* That of the total amount provided, $6,800,000 shall remain available until September 30, 2010, for the Visa Security Program: *Provided further,* That none of the funds provided under this heading may be used to continue a delegation of law enforcement authority authorized under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) if the Department of Homeland Security Inspector General determines that the terms of the agreement governing the delegation of authority have been violated: *Provided further,* That effective April 15, 2009, none of the funds provided under this heading may be used to continue any contract for the provision of detention services if the two most recent overall performance evaluations received by the contracted facility are less than "adequate" or the equivalent median score in any subsequent performance evaluation system: *Provided further,* That the Secretary ~~of Homeland Security~~ shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not later

than January 5, 2009, a plan for nationwide implementation of the Alternatives to Detention program that identifies: (1) the funds required for nationwide program implementation; (2) the timeframe for achieving nationwide program implementation; and (3) an estimate of the number of individuals who could be enrolled in a nationwide program: *Provided further,* That nothing under this heading shall prevent U.S. Immigation and Customs Enforcement from exercising those authorities provided under immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) during priority operations pertaining to aliens convicted of a crime.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: *Provided*, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than December 31, 2008, that the operations of the Federal Protective Service will be fully funded in fiscal year 2009 through revenues and collection of security fees, and shall adjust the fees

to ensure fee collections are sufficient to ensure that the Federal Protective Service maintains not fewer than 1,200 full-time equivalent staff and 900 full-time equivalent Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as "in-service field staff").

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $57,000,000, to remain available until expended: *Provided*, That of the funds made available under this heading, $5,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan prepared by the Secretary of Homeland Security.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $5,000,000, to remain available until expended: *Provided*, That none of the funds made available under this heading may be used to solicit or consider any request to privatize facilities currently owned by the United States Government and used to detain aliens unlawfully present in the United States until

the Committees on Appropriations of the Senate and the House of Representatives receive a plan for carrying out that privatization.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,754,518,000, to remain available until September 30, 2010, of which not to exceed $10,000 shall be for official reception and representation expenses: *Provided*, That of the total amount made available under this heading, not to exceed $3,935,710,000 shall be for screening operations, of which $621,106,000 shall be available for explosives detection systems; and not to exceed $798,808,000 shall be for aviation security direction and enforcement: *Provided further,* That of the amount made available in the preceding proviso for explosives detection systems, $294,000,000 shall be available for the purchase and installation of these systems, of which not less than $84,500,000 shall be available for the purchase and installation of certified explosives detection systems at medium- and small-sized airports: *Provided further,* That the purchase of screening equipment for medium-

and small-sized airports must be competitively awarded: *Provided further,* That any award to deploy explosives detection systems shall be based on risk, the airports current reliance on other screening solutions, lobby congestion resulting in increased security concerns, high injury rates, airport readiness, and increased cost effectiveness: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: *Provided further*, That any funds collected and made available from aviation security fees pursuant to section 44940(i) of title 49, United States Code, may, notwithstanding paragraph (4) of such section 44940(i), be expended for the purpose of improving screening at airport screening checkpoints, which may include the purchase and utilization of emerging technology equipment; the refurbishment and replacement of current equipment; the installation of surveillance systems to monitor checkpoint activities; the modification of checkpoint infrastructure to support checkpoint reconfigurations; and the creation of additional checkpoints to screen aviation passengers and airport personnel: *Provided further*, That of the amounts provided under this heading, $20,000,000 may be transferred to the "Surface Transportation Security", "Transportation Threat As-

sessment and Credentialing", and "Transportation Security Support" appropriations in this Act for the purpose of implementing regulations and activities authorized in the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53): *Provided further*, That the sum appropriated under this heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2009, so as to result in a final fiscal year appropriation from the general fund estimated at not more than $2,434,518,000: *Provided further*, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2010: *Provided further*, That Members of the United States House of Representatives and United States Senate, including the leadership; the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $49,606,000, to remain available until September 30, 2010.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $116,018,000, to remain available until September 30, 2010: *Provided*, That if the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that the Secure Flight program does not need to check airline passenger names against the full terrorist watch list, the Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no significant security risks are raised by screening airline passenger names only against a subset of the full terrorist watch list.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $947,735,000, to

remain available until September 30, 2010: *Provided*, That of the funds appropriated under this heading, $20,000,000 may not be obligated for headquarters administration until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives detailed expenditure plans for checkpoint support and explosives detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2009: *Provided further*, That these plans shall be submitted no later than 60 days after enactment of this Act. THE DATE OF

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $819,481,000.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; for purchase or lease of small boats for contingent and emergent requirements (at a unit cost of no more than $700,000) and for repairs and service-life replacements, not to exceed a total of $26,000,000; minor shore construction projects not exceeding $1,000,000 in total cost at any location; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C.

402 note; 96 Stat. 1920); and recreation and welfare; $6,194,925,000, of which $340,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which not to exceed $20,000 shall be for official reception and representation expenses; and of which $3,600,000 shall be available until expended for the cost of repairing, rehabilitating, altering, modifying, and making improvements, including customized tenant improvements, to any replacement or expanded Operations Systems Center facility: *Provided*, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds made available by this Act shall be for expenses incurred for recreational vessels under section 12114 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That the Commandant shall submit a financial management improvement plan that has been reviewed by the Inspector General of the Department of Homeland Security containing yearly, measurable milestones, to the Committees on Appropriations of the Senate and the House

of Representatives by December 1, 2008: *Provided further,* That the Coast Guard shall comply with the requirements of section 527 of Public Law 108-136 with respect to the Coast Guard Academy: *Provided further,* That notwithstanding section 503 of this Act, amounts not to exceed 5 percent of the total amount appropriated under this heading may be transferred to the "Acquisition, Construction, and Improvements" appropriation, to be available under the terms and conditions applicable to that appropriation, and to be available for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects without detrimentally affecting the management and oversight of other projects: *Provided further,* That the amount made available for "Personnel, Compensation, and Benefits" in the "Acquisition, Construction, and Improvements" appropriation shall not be increased by more than 10 percent by such transfers: *Provided further,* That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 10 days after it is executed.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the Coast

Guard under chapter 19 of title 14, United States Code, $13,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $130,501,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,494,576,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $113,000,000 shall be available until September 30, 2013, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $89,174,000 shall be available until September 30, 2011, for other equipment; of which $68,000,000 shall be available until September 30, 2011, for shore facilities and aids to navigation facilities, including $3,000,000 for Sector Buffalo and $15,000,000 for the Rescue Swimmer Training Facility; of which $92,830,000 shall be available for personnel compensation

and benefits and related costs; of which $97,578,000 shall be available until expended for a new Coast Guard and Department of Homeland Security headquarters; and of which $1,033,994,000 shall be available until September 30, 2013, for the Integrated Deepwater Systems program: *Provided*, That of the funds made available for the Integrated Deepwater Systems program, $244,550,000 is for aircraft and $571,003,000 is for surface ships: *Provided further*, That $350,000,000 of the funds provided for the Integrated Deepwater Systems program may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive directly from the Coast Guard and approve a plan for expenditure that—

(1) defines activities, milestones, yearly costs, and lifecycle costs for each new procurement of a major asset, including an independent cost estimate for each;

(2) identifies lifecycle staffing and training needs of Coast Guard project managers and procurement and contract staff;

(3) identifies competition to be conducted in, and summarizes the approved acquisition strategy for, each procurement;

(4) includes a certification by the Chief Human Capital Officer of the Department of Homeland Security that current human capital capabilities are sufficient to execute the expenditure plan;

(5) includes an explanation of each procurement that involves an indefinite delivery/indefinite quantity contract and explains the need for such contract;

(6) identifies individual project balances by fiscal year, including planned carryover into fiscal year 2010 by project;

(7) identifies operational gaps by asset and explains how funds provided in this Act address the shortfalls between current operational capabilities and requirements;

(8) includes a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Coast Guard actions to address the recommendations, including milestones for fully addressing them;

(9) includes a certification by the Chief Procurement Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the De-

partment, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(10) identifies use of the Defense Contract Audit Agency;

(11) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with plans for addressing these risks, and the status of their implementation;

(12) identifies the use of independent validation and verification; and

(13) is reviewed by the Government Accountability Office:

*Provided further,* That no funding may be obligated for low rate initial production or initial production of any Integrated Deepwater Systems program asset until Coast Guard revises its Major Systems Acquisition Manual procedures to require a formal design review prior to the authorization of low rate initial production or initial produc-

tion: *Provided further,* That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2010 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Integrated Deepwater Systems program assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Integrated Deepwater Systems program; and the earned value management system gold card data for each Integrated Deepwater Systems program asset: *Provided further*, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every ~~five~~ 5 years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: *Provided further*, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan

for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next ~~five~~ 5 fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

*Provided further*, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: *Provided further,* That subsections

(a), and (b) of section 6402 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) shall apply to fiscal year 2009: *Provided further,* That notwithstanding section 503 of this Act, amounts transferred from the "Operating Expenses" appropriation for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects may be transferred to the "Operating Expenses" appropriation to be merged with that appropriation, to be available under the same terms and conditions for which that appropriation is available, when no longer required for project acceleration or oversight, or to otherwise adjust personnel assignment: *Provided further,* That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended: *Provided,* That of the amounts made available under this heading, $2,000,000 shall be for the Burlington Northern Railroad Bridge in Burlington, Iowa; $2,000,000 shall be for the Canadian Pa-

cific Railway Bridge in La Crosse, Wisconsin; $2,000,000 shall be for the Chelsea Street Bridge in Chelsea, Massachusetts; $2,000,000 shall be for the Elgin, Joliet, and Eastern Railway Company Bridge in Morris, Illinois; $4,000,000 shall be for the Fourteen Mile Bridge in Mobile, Alabama; and $4,000,000 shall be for the Galveston Causeway Bridge in Galveston, Texas.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $18,000,000, to remain available until expended, of which $500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for ca-

reer status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,236,745,000, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 675 vehicles for police-type use, of which 645 shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees

on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,408,729,000; of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be for a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2010: *Provided further,* That up to $1,000,000 for National Special Security Events shall remain available until expended: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title

5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year: *Provided further,* That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes: *Provided further,* That the limitation in the preceding proviso shall not take effect until the Director of the Office of Management and Budget submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that such a limitation on compensation will not have a significant effect on operations of the United States Secret Service: *Provided further,* That none of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: *Provided further,* That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $4,225,000, to remain available until expended: *Provided,* That of the total amount provided, $250,000 is for a perimeter security and noise abatement study at the James J. Rowley Training Center.

## TITLE III

## PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

### National Protection and Programs Directorate

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for the National Protection and Programs Directorate, support for operations, information technology, and the Office of Risk Management and Analysis, $51,350,000: *Provided,* That not to exceed $5,000 shall be for official reception and representation expenses.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $806,913,000, of which $720,116,000 shall remain available until September 30,

2010: *Provided,* That of the total amount provided, $20,000,000 is for necessary expenses of the National Infrastructure Simulation and Analysis Center: *Provided further,* That of the amount made available under this heading, $127,462,000 may not be obligated for the National Cyber Security Initiative program and $25,125,000 may not be obligated for the Next Generation Networks program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for that program that describes the strategic context of the program; the specific goals and milestones set for the program; and the funds allocated to achieving each of those goals: *Provided further,* That of the total amount provided, $2,000,000 is for Philadelphia infrastructure monitoring; $3,000,000 is for protection of critical underground infrastructure in major urban areas; $1,000,000 is for improved improvised explosive device mapping and modeling tools; $3,500,000 is for State and local cyber security training; and $4,000,000 is for the Power and Cyber Systems Protection, Analysis and ~~Training~~ Testing Program at the Idaho National Laboratory

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator

Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $300,000,000, to remain available until expended: *Provided*, That of the total amount made available under this heading, $75,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security that includes—

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General rec-

ommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing such recommendations;

(4)(a) a certification by the Chief Procurement Officer of the Department that (1) the program has been reviewed and approved in accordance with the investment management process of the Department; (2) the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including as provided in Circular A–11, part 7; and (3) the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices; and (b) a description by the Chief Procurement Officer of the actions being taken to address areas of non-compliance, the risks associated with such areas as well as any plans for addressing such risks, and the status of the implementation of such actions;

(5)(a) a certification by the Chief Information Officer of the Department that (1) an independent verification and validation agent is currently under contract for the project; (2) the system architecture of the program is sufficiently aligned with the infor-

mation systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architecture that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment along with the associated risks and corrective actions to address any such areas; and (3) the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and Department investment decision makers; and (b) a listing by the Chief Information Officer of all the program's high risks and the status of efforts to address them;

(6) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report;

(7) a complete schedule for the full implementation of a biometric exit program or a certification that such program is not possible within ~~five~~ 5 years; and

(8) a detailed accounting of operation and maintenance, contractor services, and program costs associated with the management of identity services: *Provided further*, That no funding under this heading shall be obligated for implementation of a final air exit solution pursuant to the notice of proposed rulemaking (DHS–2008–0039) published on April 24, 2008, until the Committees on Appropriations of the Senate and the House of Representatives receive a report on pilot tests of the air exit solution, which shall be reviewed by the Government Accountability Office, and which shall test at least two scenarios: (a) where the airlines collect and transmit biometric exit data as proposed in the notice of proposed rulemaking and (b) where U.S. Customs and Border Protection collects such information at the departure gates.

OFFICE OF HEALTH AFFAIRS

For necessary expenses of the Office of Health Affairs, $157,191,000, of which $29,210,000 is for salaries and expenses; and of which $127,981,000 is to remain available until September 30, 2010, for biosurveillance, BioWatch, medical readiness planning, chemical response, and other activities: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration of the Federal Emergency Management Agency, $837,437,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394): *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses: *Provided further*, That the President's budget submitted under section 1105(a) of title 31, United States Code, shall be detailed by office for the Federal Emergency Management Agency: *Provided further*, That $10,000,000 shall not be available for obligation until the Secretary of Homeland Security, in coordination with the Administrator of the Federal Emergency Management Agency, certifies and reports to the Committees

on Appropriations of the Senate and the House of Representatives that processes to incorporate stakeholder input for grant guidance development and award distribution have been: (1) developed to ensure transparency and increased consultation about security needs for all-hazards; (2) formalized and made clear to stakeholders; and (3) formalized to ensure future use for each fiscal year: *Provided further,* That of the total amount made available under this heading, $5,000,000 shall be for the development of tools and systems to measure the achievement and effectiveness of first responder grant programs: *Provided further*, That of the total amount made available under this heading, $32,500,000 shall be for the Urban Search and Rescue Response System, of which not to exceed $1,600,000 may be made available for administrative costs; $2,200,000 shall be for the Pacific Region Homeland Security Center, Honolulu, Hawaii, ~~and~~ $5,000,000 shall be for the State of North Carolina, and $2,425,000 shall be for the ~~State~~ of Kentucky, as detailed in the statement accompanying this Act; and $6,342,000 shall be for the Office of National Capital Region Coordination: *Provided further*, That for purposes of planning, coordination, execution, and decision-making related to mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their

designees, shall be incorporated into efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

STATE AND LOCAL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other activities, $3,105,700,000 shall be allocated as follows:

(1) $950,000,000 shall be for the State Homeland Security Grant Program under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605): *Provided*, That of the amount provided by this paragraph, $60,000,000 shall be for Operation Stonegarden: *Provided further,* That notwithstanding subsection (c)(4) of such section 2004, for fiscal year 2009, the Commonwealth of Puerto Rico shall make available to local and tribal governments amounts provided to the Commonwealth of Puerto Rico under this paragraph in accordance with subsection (c)(1) of such section 2004.

(2) $837,500,000 shall be for the Urban Area Security Initiative under section 2003 of the Homeland Security Act of 2002 (6 U.S.C. 604), of which, notwithstanding subsection (c)(1) of such section, $15,000,000 shall be for grants to organizations (as

described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such code) determined by the Secretary (of Homeland Security) to be at high risk of a terrorist attack.

(3) $35,000,000 shall be for Regional Catastrophic Preparedness Grants.

(4) $41,000,000 shall be for the Metropolitan Medical Response System under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

(5) $15,000,000 shall be for the Citizens Corps Program.

(6) $400,000,000 shall be for Public Transportation Security Assistance and Railroad Security Assistance under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135 and 1163), of which not less than $25,000,000 shall be for Amtrak security: *Provided,* That there shall be no cost share requirement for funds made available under this paragraph and made available for these same purposes in Public Law 110–161: *Provided further,* That such public transportation security assistance shall be provided directly to public transportation agencies.

(7) $400,000,000 shall be for Port Security Grants in accordance with 46 U.S.C. 70107.

(8) $12,000,000 shall be for Over-the-Road Bus Security Assistance under section 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1182).

(9) $8,000,000 shall be for Trucking Industry Security Grants.

(10) $50,000,000 shall be for Buffer Zone Protection Program Grants.

(11) $8,000,000 shall be for the Commercial Equipment Direct Assistance Program.

(12) $50,000,000 shall be for the Interoperable Emergency Communications Grant Program under section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579).

(13) $35,000,000 shall remain available until expended, for grants for Emergency Operations Centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c), as detailed in the statement accompanying this Act.

(14) $264,200,000 shall be for training, exercises, technical assistance, and other programs, of which—

(A) $164,500,000 is for purposes of training in accordance with section 1204 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1102), of which $62,500,000 shall be for the Center for Domestic Preparedness; $23,000,000 shall be for the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology; $23,000,000 shall be for the National Center for Biomedical Research and Training, Louisiana State University; $23,000,000 shall be for the National Emergency Response and Rescue Training Center, Texas A&M University; $23,000,000 shall be for the National Exercise, Test, and Training Center, Nevada Test Site; $5,000,000 shall be for the Transportation Technology Center, Incorporated, in Pueblo, Colorado; and $5,000,000 shall be for the National Disaster Preparedness Training Center, University of Hawaii, Honolulu, Hawaii; and

(B) $1,700,000 for the Center for Counterterrorism and Cyber Crime, Norwich University, Northfield, Vermont:

*Provided*, That not to exceed 3 percent of the amounts provided under this heading may be transferred to the Federal Emergency Management Agency "Management and Administration" account for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days of the date of enactment of this Act: *Provided further*, That for grants under paragraphs (1) through (5), the applications for grants shall be made available to eligible applicants not later than 25 days after the date of enactment of this Act, that eligible applicants shall submit applications not later than 90 days after the grant announcement, and that the Administrator of the Federal Emergency Management Agency shall act within 90 days after receipt of an application: *Provided further*, That for grants under paragraphs (6) through (10) and (12), the applications for grants shall be made available to eligible applicants not later than 30 days after the date of enactment of this Act, that eligible applicants shall submit applications within 45 days after the grant announcement, and that the Federal Emergency Management Agency shall act not later than 60 days after receipt of an application: *Provided further,* That for grants under paragraphs (1) and (2), the installation of communications towers is not con-

sidered construction of a building or other physical facility: *Provided further*, That grantees shall provide reports on their use of funds, as determined necessary by the Secretary ~~of Homeland Security~~: *Provided further*, That (a) the Center for Domestic Preparedness may provide training to emergency response providers from the Federal Government, foreign governments, or private entities, if the Center for Domestic Preparedness is reimbursed for the cost of such training, and any reimbursement under this subsection shall be credited to the account from which the expenditure being reimbursed was made and shall be available, without fiscal year limitation, for the purposes for which amounts in the account may be expended, (b) the head of the Center for Domestic Preparedness shall ensure that any training provided under (a) does not interfere with the primary mission of the Center to train State and local emergency response providers: *Provided further*, That the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives regarding the data, assumptions, and methodology that the Department of Homeland Security uses to assess risk and allocate grants under the Urban Area Security Initiative and State Homeland Security Grant Program not later than 45 days after the date of enactment of this Act: *Provided further*, That the report

shall include an assessment of the reliability and validity of the data used, the basis for the assumptions used, how the methodology is applied to determine the risk scores for individual locations, an analysis of the usefulness of placing States and cities into tier groups, and the allocation of grants to eligible locations: *Provided further*, That the Department provide the Government Accountability Office with the actual data that the Department used for its risk assessment and grant allocation: *Provided further*, That the Department provide the Government Accountability Office with access to all data needed for its analysis and report, including specifics on all changes for the fiscal year 2009 process, including, but not limited to, all changes in data, assumptions, and weights used in methodology within 7 days after the date of enactment of this Act: *Provided further*, That any subsequent changes made regarding the risk methodology after the initial information is provided to the Government Accountability Office shall be provided within 7 days after the change is made.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $775,000,000, of which $565,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $210,000,000 shall be available to carry out section 34 of that Act (15 U.S.C.

2229a), to remain available until September 30, 2010: *Provided*, That not to exceed 5 percent of the amount available under this heading shall be available for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriation of the Senate and the House of Representatives within 60 days of the date of enactment of this Act.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $315,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2009, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency prepared-

ness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2009, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $44,979,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,400,000,000, to remain available until expended: *Provided,* That the Federal Emergency Management Agency shall submit an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives detailing the use of the funds for disaster readiness and support within 60 days after the date of enactment of this Act: *Provided further,* That the Federal Emergency Management Agency shall

provide a quarterly report detailing obligations against the expenditure plan and a justification for any changes in spending: *Provided further,* That of the total amount provided, $16,000,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: *Provided further*, That up to $105,600,000 may be transferred to "Management and Administration", Federal Emergency Management Agency for management and administration functions: *Provided further*, That the amount provided in the previous proviso shall not be available for transfer to "Management and Administration" until the Federal Emergency Management Agency submits an implementation plan to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the Federal Emergency Management Agency shall submit the monthly "Disaster Relief" report, as specified in Public Law 110–161, to the Committees on Appropriations of the Senate and the House of Representatives, and include the amounts provided to each Federal Agency for mission assignments: *Provided further*, That for any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Robert T. Stafford Disaster Relief and Emergency Assist-

ance Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department policies on—

(1) the detailed information required in supporting documentation for reimbursements; and

(2) the necessity for timeliness of agency billings.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $295,000 is for the cost of direct loans: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $220,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act (42 U.S.C. 4101(f)(2)), to remain available until expended: *Provided*, That total admin-

istrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $156,599,000, which shall be derived from offsetting collections assessed and collected under section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)), which is available as follows: (1) not to exceed $49,418,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) no less than $107,181,000 for flood plain management and flood mapping, which shall remain available until September 30, 2010: *Provided*, That any additional fees collected pursuant to section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)) shall be credited as an offsetting collection to this account, to be available for flood plain management and flood mapping: *Provided further*, That in fiscal year 2009, no funds shall be available from the National Flood Insurance Fund under section 1310 of that Act (42 U.S.C. 4017) in excess of: (1) $85,000,000 for operating expenses; (2) $869,905,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $125,700,000, which shall remain available until expended

for flood mitigation actions, of which $80,000,000 is for severe repetitive loss properties under section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a), of which $10,000,000 is for repetitive insurance claims properties under section 1323 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030), and of which $35,700,000 is for flood mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) notwithstanding subparagraphs (B) and (C) of subsection (b)(3) and subsection (f) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) and notwithstanding subsection (a)(7) of section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017): *Provided further,* That amounts collected under section 102 of the Flood Disaster Protection Act of 1973 and section 1366(i) of the National Flood Insurance Act of 1968 shall be deposited in the National Flood Insurance Fund to supplement other amounts specified as available for section 1366 of the National Flood Insurance Act of 1968, notwithstanding 42 U.S.C. 4012a(f)(8), 4104c(i), and 4104d(b)(2)-(3): *Provided further*, That total administrative costs shall not exceed 4 percent of the total appropriation.

NATIONAL PREDISASTER MITIGATION FUND

For the predisaster mitigation grant program under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), $90,000,000, to remain available until expended and as detailed in the statement accompanying this Act: *Provided*, That the total administrative costs associated with such grants shall not exceed 3 percent of the total amount made available under this heading.

EMERGENCY FOOD AND SHELTER

To carry out the emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $200,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total amount made available under this heading.

CERRO GRANDE FIRE CLAIMS

(~~INCLUDING~~ RESCISSION OF FUNDS)

Of the funds made available under this heading for obligation in prior years, $9,000,000 are rescinded.

# TITLE IV

## RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

### UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $101,740,000, of which $100,000,000 is for the E-Verify program to assist United States employers with maintaining a legal workforce: *Provided*, That notwithstanding any other provision of law, funds available to United States Citizenship and Immigration Services may be used to acquire, operate, equip, dispose of and replace up to five vehicles, of which two are for replacement only, for areas where the Administrator of General Services does not provide vehicles for lease: *Provided further*, That the Director of United States Citizenship and Immigration Services may authorize employees who are assigned to those areas to use such vehicles between the employees' residences and places of employment.

### FEDERAL LAW ENFORCEMENT TRAINING CENTER

#### SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; the purchase of not to exceed 117 vehicles for police-type use and

hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $246,530,000, of which up to $48,611,000 shall remain available until September 30, 2010, for materials and support costs of Federal law enforcement basic training; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note), as amended by Public Law 110–161 (121 Stat. 2068), is

further amended by striking "December 31, 2010" and inserting "December 31, 2011"; *Provided further,* That the Federal Law Enforcement Training Accreditation Board, including representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, shall lead the Federal law enforcement training accreditation process to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall schedule basic or advanced law enforcement training, or both, at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that such training facilities are operated at the highest capacity throughout the fiscal year.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $86,456,000, to remain available until expended: *Provided*, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities: *Provided further,* That $3,000,000

is for construction of training and related facilities at Artesia, New Mexico.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $132,100,000: *Provided*, That not to exceed $10,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $800,487,000, to remain available until expended: *Provided,* That not less than $27,000,000 shall be available for the Southeast Region Research Initiative at the Oak Ridge National Laboratory: *Provided further,* That not less than $3,000,000 shall be available for Distributed Environment for Critical Infrastructure Decisionmaking Exercises: *Provided further,* That of the amount provided, $25,000,000 is for construction ex-

penses of the Pacific Northwest National Laboratory: *Provided further,* That not less than $11,000,000 shall be available for the National Institute for Hometown Security: *Provided further,* That not less than $2,000,000 shall be available for the Naval Postgraduate School: *Provided further,* That not less than $2,000,000 shall be available to establish a homeland security research, development, and manufacturing pilot project: *Provided further,* That none of the funds made available under this heading shall be obligated for a follow-on program to the Analysis, Dissemination, Visualization, Insight, and Semantic Enhancement program: *Provided further,* That none of the funds available under this heading shall be obligated for construction of a National Bio and Agro-defense Facility located on the United States mainland until the Secretary of Homeland Security completes a risk assessment of whether foot-and-mouth disease work can be done safely on the United States mainland and this assessment is reviewed by the Government Accountability Office: *Provided further,* That the Government Accountability Office shall complete its review within 6 months after the Department concludes the risk assessment.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office as authorized by title XIX of the Homeland Security Act of 2002 (6 U.S.C. 591 et seq.) for management and administration of programs and activities, $37,500,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation, and operations, $323,200,000, to remain available until expended.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $153,491,000, to remain available until September 30, 2011: *Provided*, That none of the funds appropriated under this heading shall be obligated for full-scale procurement of Advanced Spectroscopic Portal monitors until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that a significant increase in operational effectiveness will be achieved: *Provided further*, That the Secretary shall submit separate and distinct certifications prior to the procurement of Ad-

vanced Spectroscopic Portal monitors for primary and secondary deployment that address the unique requirements for operational effectiveness of each type of deployment: *Provided further*, That the Secretary ~~of Homeland Security~~ shall consult with the National Academy of Sciences before making such certification: *Provided further*, That none of the funds appropriated under this heading shall be used for high-risk concurrent development and production of mutually dependent software and hardware.

## TITLE V

## GENERAL PROVISIONS

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 501. 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. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act, may be merged with funds in the applicable established accounts, and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies

in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2009, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program, project, or activity; (2) eliminates a program, project, office, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year 2009 Budget Appendix for the Department of Homeland Security, as modified by the explanatory statement accompanying this Act, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that

remain available for obligation or expenditure in fiscal year 2009, or provided from any accounts in the Treasury of the United States derived by the collection of fees or proceeds available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this section shall be treated as a re-

programming of funds under subsection (b) and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances that imminently threaten the safety of human life or the protection of property.

(e) Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report listing all dollar amounts specified in this Act and accompanying explanatory statement that are identified in the detailed funding table at the end of the explanatory statement accompanying this Act or any other amounts specified in this Act or accompanying explanatory statement: *Provided,* That such dollar amounts specified in this Act and accompanying explanatory statement shall be subject to the conditions and requirements of subsections (a), (b), and (c) of this section.

SEC. 504. The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall

continue operations as a permanent working capital fund for fiscal year 2009: *Provided,* That none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the Working Capital Fund, except for the activities and amounts allowed in the President's fiscal year 2009 budget: *Provided further,* That funds provided to the Working Capital Fund shall be available for obligation until expended to carry out the purposes of the Working Capital Fund: *Provided further,* That all departmental components shall be charged only for direct usage of each Working Capital Fund service: *Provided further,* That funds provided to the Working Capital Fund shall be used only for purposes consistent with the contributing component: *Provided further,* That such fund shall be paid in advance or reimbursed at rates which will return the full cost of each service: *Provided further,* That the Working Capital Fund shall be subject to the requirements of section 503 of this Act.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2009 from appropriations for salaries and expenses for fiscal year 2009 in this Act shall remain available through September 30, 2010, in the account and for the purposes for which

the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2009 until the enactment of an Act authorizing intelligence activities for fiscal year 2009.

SEC. 507. None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least ~~three~~ 3 full business days in advance of making such an award or issuing such a letter: *Provided,* That if the Secretary of Homeland Security determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Com-

mittees on Appropriations of the Senate and the House of Representatives shall be notified not later than ~~five~~ 5 full business days after such an award is made or letter issued: *Provided further*, That no notification shall involve funds that are not available for obligation: *Provided further*, That the notification shall include the amount of the award, the fiscal year in which the funds for the award were appropriated, and the account from which the funds are being drawn: *Provided further*, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives ~~five~~ 5 full business days in advance of announcing publicly the intention of making an award under the State Homeland Security Grant Program; Urban Area Security Initiative; and the Regional Catastrophic Preparedness Grant Program.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract,

or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses for any construction, repair, alteration, or acquisition project for which a prospectus otherwise required under chapter 33 of title 40, United States Code, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 510. Sections 519, 520, 522, 528, 530, and 531 of the Department of Homeland Security Appropriations Act, 2008 (division E of Public Law 110–161; 121 Stat. 2072, 2073, 2074, 2082) shall apply with respect to funds made available in this Act in the same manner as such sections applied to funds made available in that Act.

SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 512. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow-on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Ac-

countability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

(c) Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes: (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or any other Act may be used for data or a database that is obtained from or remains under the control of a non-Federal entity: *Provided*, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 513. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 514. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 515. (a) The Secretary of Homeland Security shall research, develop, and procure new technologies to

inspect and screen air cargo carried on passenger aircraft by the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Assistant Secretary of Homeland Security (Transportation Security Administration) shall work with air carriers and airports to ensure that the screening of cargo carried on passenger aircraft, as defined in section 44901(g)(5) of title 49, United States Code, increases incrementally each quarter.

(d) Not later than 45 days after the end of each quarter, the Assistant Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on air cargo inspection statistics by airport and air carrier detailing the incremental progress being made to meet the requirements of section 44901(g)(2) of title 49, United States Code.

SEC. 516. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration "Aviation Security", "Administration" and "Transportation Security Support" for fiscal years 2004, 2005, 2006, and 2007

that are recovered or deobligated shall be available only for the procurement or installation of explosives detection systems, for air cargo, baggage, and checkpoint screening systems, subject to notification: *Provided*, That quarterly reports shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives on any funds that are recovered or deobligated.

SEC. 517. Any funds appropriated to United States Coast Guard, "Acquisition, Construction, and Improvements" for fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110–123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Replacement Patrol Boat (FRC-B) program.

SEC. 518. (a)(1) Except as provided in paragraph (2), none of the funds provided in this or any other Act shall be available to commence or continue operations of the National Applications Office until—

(A) the Secretary certifies in fiscal year 2009 that: (i) National Applications Office programs comply with all existing laws, including all applicable privacy and civil liberties standards; and, (ii) that clear definitions of all proposed domains are established and are auditable;

(B) the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification; and

(C) the Secretary notifies the Committees of all funds to be expended on the National Applications Office pursuant to section 503 of this Act.

(2) Paragraph (1) shall not apply with respect to any use of funds for activities substantially similar to such activities conducted by the Department of the Interior as set forth in the 1975 charter for the Civil Applications Committee under the provisions of law codified at section 31 of title 43, United States Code.

(b) The Inspector General shall provide to the Committees on Appropriations of the Senate and the House of Representatives, starting six months after the date of enactment of this Act, and quarterly thereafter, a classified report containing a review of the data collected by the National Applications Office, including a description of the collection purposes and the legal authority under which the collection activities were authorized: *Provided,* That the report shall also include a listing of all data collection activities carried out on behalf of the National Applications Office by any component of the National Guard.

(c) None of the funds provided in this or any other Act shall be available to commence operations of the National Immigration Information Sharing Operation until the Secretary certifies that such program complies with all existing laws, including all applicable privacy and civil liberties standards, the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification, and the Secretary notifies the Committees on Appropriations of the Senate and the House of Representatives of all funds to be expended on the National Immigration Information Sharing Operation pursuant to section 503.

SEC. 519. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees by office.

SEC. 520. Section 532(a) of Public Law 109–295 (120 Stat. 1384) is amended by striking "2008" and inserting "2009".

SEC. 521. The functions of the Federal Law Enforcement Training Center instructor staff shall be classified

as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 522. (a) None of the funds provided by this or any other Act may be obligated for the development, testing, deployment, or operation of any portion of a human resources management system authorized by 5 U.S.C. 9701(a), or by regulations prescribed pursuant to such section, for an employee as defined in 5 U.S.C. 7103(a)(2).

(b) The Secretary of Homeland Security shall collaborate with employee representatives in the manner prescribed in 5 U.S.C. 9701(e), in the planning, testing, and development of any portion of a human resources management system that is developed, tested, or deployed for persons excluded from the definition of employee as that term is defined in 5 U.S.C. 7103(a)(2).

SEC. 523. In fiscal year 2009, none of the funds made available in this or any other Act may be used to enforce section 4025(1) of Public Law 108–458 unless the Assistant Secretary of Homeland Security (Transportation Security Administration) reverses the determination of July 19, 2007, that butane lighters are not a significant threat to civil aviation security.

SEC. 524. Funds made available in this Act may be used to alter operations within the Civil Engineering Program of the Coast Guard nationwide, including civil engineering units, facilities design and construction centers, maintenance and logistics commands, and the Coast Guard Academy, except that none of the funds provided in this Act may be used to reduce operations within any Civil Engineering Unit unless specifically authorized by a statute enacted after the date of the enactment of this Act.

SEC. 525. (a) Except as provided in subsection (b), none of the funds appropriated in this or any other Act to the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, or the Office of the Chief Financial Officer, may be obligated for a grant or contract funded under such headings by a means other than full and open competition.

(b) Subsection (a) does not apply to obligation of funds for a contract awarded—

(1) by a means that is required by a Federal statute, including obligation for a purchase made under a mandated preferential program, such as the AbilityOne Program, that is authorized under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(2) under the Small Business Act (15 U.S.C. 631 et seq.);

(3) in an amount less than the simplified acquisition threshold described under section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)); or

(4) by another Federal agency using funds provided through an interagency agreement.

(c)(1) Subject to paragraph (2), the Secretary of Homeland Security may waive the application of this section for the award of a contract in the interest of national security or if failure to do so would pose a substantial risk to human health or welfare.

(2) Not later than 5 days after the date on which the Secretary of Homeland Security issues a waiver under this subsection, the Secretary shall submit notification of that waiver to the Committees on Appropriations of the Senate and the House of Representatives, including a description of the applicable contract and an explanation of why the waiver authority was used. The Secretary may not delegate the authority to grant such a waiver.

(d) In addition to the requirements established by this section, the Inspector General for the Department of Homeland Security shall review departmental contracts awarded through other than full and open competition to

assess departmental compliance with applicable laws and regulations: *Provided,* That the Inspector General shall review selected contracts awarded in the previous fiscal year through other than full and open competition: *Provided further,* That in determining which contracts to review, the Inspector General shall consider the cost and complexity of the goods and services to be provided under the contract, the criticality of the contract to fulfilling Department missions, past performance problems on similar contracts or by the selected vendor, complaints received about the award process or contractor performance, and such other factors as the Inspector General deems relevant: *Provided further,* That the Inspector General shall report the results of the reviews to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 526. None of the funds provided by this or previous appropriations Acts shall be used to fund any position designated as a Principal Federal Official for any Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) declared disasters or emergencies.

SEC. 527. None of the funds made available in this Act may be used by United States Citizenship and Immigration Services to grant an immigration benefit unless the results of background checks required by law to be

completed prior to the granting of the benefit have been received by United States Citizenship and Immigration Services, and the results do not preclude the granting of the benefit.

SEC. 528. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 529. None of the funds provided in this Act shall be available to carry out section 872 of Public Law 107–296.

SEC. 530. None of the funds provided in this Act under the heading "Office of the Chief Information Officer" shall be used for data center development other than for the National Center for Critical Information Processing and Storage until the Chief Information Officer certifies that the National Center for Critical Information Processing and Storage is fully utilized as the Department's primary data storage center at the highest capacity throughout the fiscal year.

SEC. 531. None of the funds in this Act shall be used to reduce the United States Coast Guard's Operations

Systems Center mission or its government-employed or contract staff levels.

SEC. 532. None of the funds appropriated by this Act may be used to conduct, or to implement the results of, a competition under Office of Management and Budget Circular A–76 for activities performed with respect to the Coast Guard National Vessel Documentation Center.

SEC. 533. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 534. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 535. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies

with the Federal Food, Drug, and Cosmetic Act: *Provided*, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: *Provided further*, That the prescription drug may not be—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 536. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Fed. Reg. 3984 (January 27, 2005).

SEC. 537. Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is amended—

(1) in subsection (a), by striking "Until September 30, 2008," and inserting "Until September 30, 2009 and subject to subsection (d),";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—The authority of the Secretary under this section shall terminate September 30, 2009, unless before that date the Secretary—

"(A) issues policy guidance detailing the appropriate use of that authority; and

"(B) provides training to each employee that is authorized to exercise that authority.

"(2) REPORT.—The Secretary shall provide an annual report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives detailing the projects for which the authority granted by subsection (a) was used, the rationale for its use, the funds spent using that authority, the outcome of each project for which that authority was used, and the results of any audits of such projects.".

SEC. 538. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

SEC. 539. (a) Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster.

(b) The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) In this section—

(1) the term "Administrator" means the Administrator of the Federal Emergency Management Agency; and

(2) the term "major disaster" has the meaning given that term in section 102 of the Robert T.

Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 540. Notwithstanding any other provision of law, should the Secretary of Homeland Security determine that the National Bio and Agro-defense Facility be located at a site other than Plum Island, New York, the Secretary shall liquidate the Plum Island asset by directing the Administrator of General Services to sell through public sale all real and related personal property and transportation assets which support Plum Island operations, subject to such terms and conditions as necessary to protect government interests and meet program requirements: *Provided,* That the gross proceeds of such sale shall be deposited as offsetting collections into the Department of Homeland Security Science and Technology "Research, Development, Acquisition, and Operations" account and, subject to appropriation, shall be available until expended, for site acquisition, construction, and costs related to the construction of the National Bio and Agro-defense Facility, including the costs associated with the sale, including due diligence requirements, necessary environmental remediation at Plum Island, and reimbursement of expenses incurred by the General Services Administration which shall not exceed 1 percent of the sale price: *Provided further,* That after the completion of construction and environ-

mental remediation, the unexpended balances of funds appropriated for costs in the preceding proviso shall be available for transfer to the appropriate account for design and construction of a consolidated Department of Homeland Security Headquarters project, excluding daily operations and maintenance costs, notwithstanding section 503 of this Act, and the Committees on Appropriations of the Senate and the House of Representatives shall be notified 15 days prior to such transfer.

SEC. 541. Any official that is required by this Act to report or certify to the Committees on Appropriations of the Senate and the House of Representatives may not delegate such authority to perform that act unless specifically authorized herein.

SEC. 542. The Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall notify the Committees on Appropriations of the Senate and the House of Representatives of any proposed transfers of funds available under 31 U.S.C. 9703.2(g)(4)(B) from the Department of the Treasury Forfeiture Fund to any agency within the Department of Homeland Security: *Provided,* That none of the funds identified for such a transfer may be obligated until the Committees on Appropriations of the Senate and the House of Representatives approve the proposed transfers.

SEC. 543. Section 520 of Public Law 108–90 (6 U.S.C. 469) is amended—

(1) by inserting "(a) FEES.—" before "For fiscal year 2004 and thereafter"; and

(2) by adding at the end the following:

"(b) RECURRENT TRAINING OF ALIENS IN OPERATION OF AIRCRAFT.—

"(1) PROCESS FOR REVIEWING THREAT ASSESSMENTS.—Notwithstanding section 44939(e) of title 49, United States Code, the Secretary shall establish a process to ensure that an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)) applying for recurrent training in the operation of any aircraft is properly identified and has not, since the time of any prior threat assessment conducted pursuant to section 44939(a) of such title, become a risk to aviation or national security.

"(2) INTERRUPTION OF TRAINING.—If the Secretary determines, in carrying out the process established under paragraph (1), that an alien is a present risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall not provide the training or if such training has

commenced that person shall immediately terminate the training.

"(3) FEES.—The Secretary may charge reasonable fees under subsection (a) for providing credentialing and background investigations for aliens in connection with the process for recurrent training established under paragraph (1). Such fees shall be promulgated by notice in the Federal Register.".

SEC. 544. (a) Not later than six months from the date of enactment of this Act, the Secretary of Homeland Security shall consult with the Secretaries of Defense and Transportation and develop a concept of operations for unmanned aerial systems in United States national airspace system for the purposes of border and maritime security operations.

(b) The Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives not later than 30 days after enactment of this Act on any foreseeable challenges to complying with subsection (a).

SEC. 545. If the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that an airport does not need to participate in the basic pilot program, the Assistant Secretary shall certify

to the Committees on Appropriations of the Senate and the House of Representatives that no security risks will result by such non-participation.

SEC. 546. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the President shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided,* That the President shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) for such facilities: *Provided further,* That nothing in the previous proviso may be construed to alter the appeal or review process relating to assistance provided under section 406 of the ~~Stafford~~ Act (42 U.S.C. 5172): *Provided further,* That the President shall not reduce the amount of assistance provided to a local government under section 406(d) of the ~~Stafford~~ Act (42 U.S.C. 5172(d)) more than once for each such type of facility for which that local government is receiving assistance under section 406 of the Robert T. Stafford

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ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE

Disaster Relief and Emergency Assistance Act relating to Hurricane Katrina of 2005 or Hurricane Rita of 2005.

SEC. 547. For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (division B of Public Law 109–13), $50,000,000, to remain available until expended. In addition, for developing an information sharing and verification capability with States to support implementation of the REAL ID Act, $50,000,000, to remain available until expended: *Provided,* That none of the funds provided in this section for development of the information technology system ~~known as the "REAL ID hub"~~ shall be available to create any new system of records from the data accessible by such information technology system, or to create any means of access by Federal agencies to such information technology system other than to fulfill responsibilities pursuant to the REAL ID Act of 2005.

SEC. 548. Notwithstanding any other provision of law, the Federal Emergency Management Agency shall reimburse Jones County and Harrison County in the State of Mississippi under section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173) for unreimbursed costs relating to the removal of debris that were incurred by such counties as a result of Hurricane Katrina in 2005.

SEC. 549. From the unobligated balances of prior year appropriations made available for Transportation Security Administration "~~Aviation Security~~", $31,000,000 are rescinded: *Provided,* That the Transportation Security Administration shall not rescind any unobligated balances from the following programs: screener partnership program; explosives detection systems; checkpoint support; aviation regulation and other enforcement; air cargo; and air cargo research and development.

SEC. 550. From the unobligated balances of prior year appropriations made available for "Analysis and Operations", $21,373,000 are rescinded.

SEC. 551. From unobligated balances of prior year appropriations made available for Coast Guard "Acquisition, Construction, and Improvements", $20,000,000 are rescinded: *Provided,* That no funds shall be rescinded from prior year appropriations provided for the National Security Cutter or the ~~Marine~~ Patrol Aircraft: *Provided further,* That the Coast Guard shall submit notification in accordance with section 503 of this Act listing projects for which funding will be rescinded.

SEC. 552. For fiscal year 2008, funds made available for Federal Emergency Management Agency "National Predisaster Mitigation Fund" shall be provided as detailed

in the explanatory statement accompanying Public Law 110–161.

SEC. 553. Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking "September 30, 2008" and inserting "September 30, 2009".

This division may be cited as the "Department of Homeland Security Appropriations Act, 2009".

Xerox

# DIVISION E—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2009

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2009, and for other purposes, namely:

## TITLE I

## DEPARTMENT OF DEFENSE

### MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $4,692,648,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed $178,685,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional

obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Army", and under the headings "Army" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 110–5, $34,720,000 are hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 110–161, $16,600,000 are hereby rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $3,333,369,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed $246,528,000 shall be available for study,

planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Navy and Marine Corps", and under the headings "Navy" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,117,746,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed $93,436,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropria-

tions of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Air Force", and under the headings "Air Force" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 110–161, $20,821,000 are hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $1,695,204,000, to remain available until September 30, 2013: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the

same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $186,060,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Defense-Wide", and under the headings "Defense-Wide" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 108–324, $3,589,000 are hereby rescinded: *Provided further,* That none of the funds appropriated under this heading may be obligated or expended for site activation or construction of a long-range missile defense system in a European country until the government of the country in which such missile defense system (including interceptors and associated radars) is proposed to be deployed has given final approval (including par-

liamentary ratification) to any missile defense agreements negotiated between such government and the United States Government concerning the proposed deployment of such components in such country.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $736,317,000, to remain available until September 30, 2013[: *Provided*, That of the amount appropriated, not to exceed $50,563,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor]: *Provided ~~further~~*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Army National Guard", and under the headings "Army National Guard" in the table entitled "Military Construction", in the explanatory

statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further,* That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 110–161, $1,400,000 are hereby rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $242,924,000, to remain available until September 30, 2013[: *Provided*, That of the amount appropriated, not to exceed $10,209,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor]: *Provided ~~further~~*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Air National Guard", and under the headings "Air National Guard" in the table entitled "Military Construction", in the explanatory statement de-

scribed in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $282,607,000, to remain available until September 30, 2013[: *Provided*, That of the amount appropriated, not to exceed $14,883,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor]: *Provided ~~further~~*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Army Reserve", and under the headings "Army Reserve" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $57,045,000, to remain available until September 30, 2013[: *Provided*, That of the amount appropriated, not to exceed $2,045,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor]: *Provided ~~further~~*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Navy Reserve", and under the headings "Navy Reserve" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and ad-

ministration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $36,958,000, to remain available until September 30, 2013[: *Provided*, That of the amount appropriated, not to exceed $5,675,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor]: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Air Force Reserve", and under the headings "Air Force Reserve" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective

defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $230,867,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $646,580,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Army", and under the heading "Family Housing Construction, Army" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $716,110,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $380,123,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Navy and Marine Corps", and under the heading "Family Housing Construction, Navy and Marine Corps" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $376,062,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition,

expansion, extension, and alteration, as authorized by law, $395,879,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Air Force", and under the heading "Family Housing Construction, Air Force" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $594,465,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $49,231,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $850,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND

For the Homeowners Assistance Fund established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $4,500,000, to remain available until expended.

CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, $144,278,000, to remain available until September 30, 2013, which shall be only for the Assembled Chemical Weapons Alternatives program: *Provided,* That

the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Chemical Demilitarization Construction, Defense-Wide" in the table entitled "Military Construction" in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $458,377,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $8,765,613,000, to remain available until expended: *Provided*, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently

submitted budget request for this account by 20 percent or $2,000,000, whichever is less: *Provided further*, That the previous proviso shall not apply to projects costing less than $5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be

used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military depart-

ment by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report in unclassified and, if necessary, classified form, on actions taken by the

Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

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

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in

dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term "host country" means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

(INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification, or 14 days for a notification provided in an electronic medium pursuant to sections 480 and 2883, of title 10, United States Code, to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated

for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts trans-

ferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 123. Notwithstanding any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 124. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appro-

priated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(INCLUDING TRANSFER OF FUNDS)

SEC. 125. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a continuing mission or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may

not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided*, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.

(INCLUDING TRANSFER OF FUNDS)

SEC. 126. During the 5-year period after appropriations available in this Act to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense", to be merged with and to be available for the same time period and for

the same purposes as the appropriation to which transferred.

SEC. 127. None of the funds appropriated or otherwise made available in this title may be used for any action that is related to or promotes the expansion of the boundaries or size of the Pinon Canyon Maneuver Site, Colorado.

SEC. 128. Amounts appropriated or otherwise made available in an account funded under the headings in this title may be transferred among projects and activities within that account in accordance with the reprogramming guidelines for military construction and family housing construction contained in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), and in the guidance for military construction reprogrammings and notifications contained in Department of Defense Financial Management Regulation 7000.14–R, Volume 3, Chapter 7, of December 1996, as in effect on the date of enactment of this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 129. (a) Of the amount appropriated or otherwise made available by this Act for the Department of Defense under the heading "Military Construction, Air Force" and available for planning and design, the Secretary of the Air Force shall, in accordance with section 1535 of title 31, United States Code, transfer $500,000

to the American Battle Monuments Commission to conduct an engineering study on the restoration of the Lafayette Escadrille Memorial in Marnes-La-Coquette, France.

(b) The study conducted pursuant to subsection (a) shall include:

(1) an estimate of costs to be incurred to restore the structure, features, landscaped grounds and caretaker's quarters of the Lafayette Escadrille Memorial to standards similar to memorials and burial grounds administered by the American Battle Monuments Commission; and

(2) an estimate of annual costs for the long-term preservation, maintenance, and operation of the memorial under those standards.

(c) The amount transferred under subsection (a) shall remain available until expended.

SEC. 130. Of the funds provided for "Family Housing Construction, Defense-Wide" under Public Law 110–5, $6,040,000 are hereby rescinded.

~~SEC. 131. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Air National Guard", there is hereby appropriated an additional $28,000,000, to remain available until September 30, 2013, for the construction of Air National Guard fire stations: *Provided,* That within 30 days~~

insert 29a

29A

Sec. 131. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Air National Guard", there is hereby appropriated an additional $28,000,000 to remain available until September 30, 2013, for the construction of Air National Guard fire stations: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act, and prior to obligation of funds, the Air National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this section.

of enactment of this Act, and prior to obligation of funds, the Air National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this section.

SEC. 132. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Army National Guard", there is hereby appropriated an additional $147,000,000, to remain available until September 30, 2013, for the construction of strategic training facilities and aviation maintenance facilities consistent with Army National Guard emerging requirements: *Provided,* That within 30 days of enactment of this Act, and prior to obligation of funds, the Director of the Army National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this section.

[SEC. 133. (a) Funds appropriated or otherwise made available in this title under the heading "North Atlantic Treaty Organization Security Investment Program" may be obligated and expended notwithstanding section 2806 of title 10, United States Code.

[(b) The authority provided under subsection (a) shall expire upon enactment into law of the Military Construction Authorization Act for Fiscal Year 2009.]

[strategic]

INSERT 30A

Sec.132. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Army National Guard," there is hereby appropriated an additional $147,000,000 to remain available until September 30, 2013, for the construction of facilities consistent with Army National Guard emerging requirements: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act, and prior to obligation of funds, the Director of the Army National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this section.

[SEC. 134. Notwithstanding any other provision of law, all military construction projects and military family housing projects for which funds are appropriated in this Act, and architectural and engineering services and construction design obtained in connection with military construction projects and military family housing projects, are hereby authorized until the date of enactment of the Military Construction Authorization Act for Fiscal Year 2009.]

## TITLE II

## DEPARTMENT OF VETERANS AFFAIRS

### VETERANS BENEFITS ADMINISTRATION

#### COMPENSATION AND PENSIONS

#### (INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App.

541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, $43,111,681,000, to remain available until expended: *Provided*, That not to exceed $26,798,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses", "Medical support and compliance", and "Information technology systems" for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical care collections fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 33, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, $3,832,944,000, to remain available until expended: *Provided,* That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than

under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, $42,300,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That during fiscal year 2009, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $157,210,000.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $61,000, as authorized by chapter 31 of title 38, United States Code: *Provided,* That such costs, including the cost of modifying such

loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,180,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $320,000, which may be paid to the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, $646,000.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed $750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical support and compliance" may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of health-care employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $30,969,903,000, plus reimbursements, of which not less than $3,800,000,000 shall be expended for specialty mental health care and of which $250,000,000 shall be for establishment and implementation of a new rural health outreach and delivery initiative: *Provided*, That of the funds made available under this heading, not to exceed $1,600,000,000 shall be available until September 30, 2010: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of

Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recov-

ery Act (42 U.S.C. 2651 et seq.): $4,450,000,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2010.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, $5,029,000,000, plus reimbursements, of which $350,000,000 shall be available until September 30, 2010: *Provided*, That $300,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, $510,000,000, plus reimbursements, to remain available until September 30, 2010.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; hire of passenger motor vehicles; and repair, alteration or improvement of facilities under the jurisdiction of the National Cemetery Administration, $230,000,000, of which not to exceed $23,000,000 shall be available until September 30, 2010.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of pas-

senger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $1,801,867,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than $1,466,095,000: *Provided further*, That of the funds made available under this heading, not to exceed $83,000,000 shall be available for obligation until September 30, 2010: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

INFORMATION TECHNOLOGY SYSTEMS

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; for pay and associated costs; and for the capital

asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code, $2,489,391,000, plus reimbursements, to be available until September 30, 2010: *Provided*, That of the funds made available under this heading, not less than $48,000,000 shall be for the Financial and Logistics Integrated Technology Enterprise program: *Provided further,* That none of these funds may be obligated until the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget; (2) complies with the Department of Veterans Affairs enterprise architecture; (3) conforms with an established enterprise life cycle methodology; and (4) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government: *Provided further,* That within 30 days of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which

provides, by project, the costs included in this appropriation.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, to include information technology, in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $87,818,000, of which $5,000,000 shall be available until September 30, 2010.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, $923,382,000, to remain available until expended, of which $10,000,000 shall be to make reimburse-

ments as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, including portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund, including needs assessments which may or may not lead to capital investments, and funds provided for the purchase of land for the National Cemetery Administration through the land acquisition line item, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2009, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2009; and (2) by the awarding of a construction contract by September 30, 2010: *Provided further*, That the Secretary of Veterans Affairs shall promptly submit to the Committees on Appropriations of both Houses of Congress a written report on any approved major construction project for which obligations are not incurred within the

time limitations established above: *Provided further,* That of the amount appropriated in this paragraph, $923,382,000 shall be for the projects and activities, and in the amounts, specified under this heading in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, $741,534,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth

in such section: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes: *Provided further:* That $7,000,000 of the amount appropriated in this paragraph shall be for the installation of alternative fueling stations at 35 medical facility campuses.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code, $175,000,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to assist States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, $42,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2009 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Department of Veterans Affairs for fiscal year 2009, in this Act or any other Act, under the "Medical services", "Medical support and compliance", and "Medical facilities" accounts may be transferred among the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: *Provided,* That any transfers between the "Medical services" and "Medical support and compliance" accounts of 1 percent or less of the total amount appropriated to the account in this or any other Act may take place subject to notification from the Secretary of Veterans Affairs to the Committees on Appropriations of both Houses of Congress of the amount

and purpose of the transfer: *Provided further,* That any transfers between the "Medical services" and "Medical support and compliance" accounts in excess of 1 percent, or exceeding the cumulative 1 percent for the fiscal year, may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued: *Provided further,* That any transfers to or from the "Medical facilities" account may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 203. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901 through 5902 of title 5, United States Code.

SEC. 204. No appropriations in this title (except the appropriations for "Construction, major projects", and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 205. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled to such hospitalization or examination under the laws providing such benefits to veterans, and persons receiving such treatment under sections 7901 through 7904 of title 5, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of the cost of such hospitalization or examination is made to the "Medical services" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available in this title for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2008.

SEC. 207. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable only from "Compensation and pensions".

(INCLUDING TRANSFER OF FUNDS)

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2009, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" and "Information technology systems" accounts for the cost of administration of the insurance programs financed through those accounts: *Provided,* That reimbursement shall be made only from the surplus earnings accumulated in such an insurance program during fiscal year 2009 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further,* That if the cost of administration of such an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further,* That the Secretary shall determine the cost of administration for fiscal year 2009 which is properly allocable to the provision of each such insurance program and to the provision of any total disability income insurance included in that insurance program.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management of the Department of Veterans Affairs and the Office of Employment Discrimination Complaint Adjudication under section 319 of title 38, United States Code, for all services provided at rates which will recover actual costs but not exceed $34,158,000 for the Office of Resolution Management and $3,278,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided,* That payments may be made in advance for services to be furnished based on estimated costs: *Provided further,* That amounts received shall be credited to the "General operating expenses" and "Information technology systems" accounts for use by the office that provided the service.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than $1,000,000 unless the Secretary submits a report which the Committees

on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided,* That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further,* That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 213. Notwithstanding any other provision of law, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the "Construction, major projects" and "Construction, minor projects" accounts and be used for construction (in-

cluding site acquisition and disposition), alterations, and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in "Construction, major projects" and "Construction, minor projects".

SEC. 214. Amounts made available under "Medical services" are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to "Medical services", to remain available until expended for the purposes of that account.

SEC. 216. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall allow veterans who are eligible under existing Department of Veterans Affairs medical care requirements and who reside in Alaska to obtain medical care services from medical facilities supported by the Indian Health Service or tribal organizations. The Secretary shall: (1) limit the application of this

provision to rural Alaskan veterans in areas where an existing Department of Veterans Affairs facility or Veterans Affairs-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with Capital Asset Realignment for Enhanced Services activities; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the "Construction, major projects" and "Construction, minor projects" accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. None of the funds available to the Department of Veterans Affairs, in this Act, or any other Act, may be used to replace the current system by which the Veterans Integrated Services Networks select and contract for diabetes monitoring supplies and equipment.

SEC. 219. None of the funds made available in this title may be used to implement any policy prohibiting the Directors of the Veterans Integrated Services Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

SEC. 220. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration.

(INCLUDING TRANSFER OF FUNDS)

SEC. 221. Amounts made available under the "Medical services", "Medical support and compliance", "Medical facilities", "General operating expenses", and "National Cemetery Administration" accounts for fiscal year 2009, may be transferred to or from the "Information technology systems" account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

(INCLUDING TRANSFER OF FUNDS)

SEC. 222. Amounts made available for the "Information technology systems" account may be transferred between projects: *Provided*, That no project may be increased or decreased by more than $1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 223. Any balances in prior year accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors shall be transferred to and merged with amounts available under the "Compensation and pensions" account, and receipts that would otherwise be credited to the accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors program shall be credited to amounts available under the "Compensation and pensions" account.

SEC. 224. Section 1710(f)(2)(B) of title 38, United States Code, is amended by striking "September 30, 2008," and inserting "September 30, 2009,".

SEC. 225. Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking "October 1, 2008," and inserting "October 1, 2009,".

SEC. 226. The Department shall continue research into Gulf War illness at levels not less than those made available in fiscal year 2008, within available funds contained in this Act.

SEC. 227. (a) Upon a determination by the Secretary of Veterans Affairs that such action is in the national interest, and will have a direct benefit for veterans through increased access to treatment, the Secretary of Veterans

Affairs may transfer not more than $5,000,000 to the Secretary of Health and Human Services for the Graduate Psychology Education Program, which includes treatment of veterans, to support increased training of psychologists skilled in the treatment of post-traumatic stress disorder, traumatic brain injury, and related disorders.

(b) The Secretary of Health and Human Services may only use funds transferred under this section for the purposes described in subsection (a).

(c) The Secretary of Veterans Affairs shall notify Congress of any such transfer of funds under this section.

SEC. 228. None of the funds appropriated or otherwise made available by this Act or any other Act for the Department of Veterans Affairs may be used in a manner that is inconsistent with—

(1) section 842 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109–115; 119 Stat. 2506); or

(2) section 8110(a)(5) of title 38, United States Code.

SEC. 229. The Secretary of Veterans Affairs may carry out a major medical facility lease in fiscal year 2009 in an amount not to exceed $12,000,000 to implement the recommendations outlined in the August 2007 Study of

South Texas Veterans' Inpatient and Specialty Outpatient Health Care Needs.

SEC. 230. Of the amounts made available to the Department of Veterans Affairs for fiscal year 2009, in this Act or any other Act, under the "Medical Facilities" account for non-recurring maintenance, not more than 20 percent of the funds made available shall be obligated during the last 2 months of the fiscal year: *Provided,* That the Secretary may waive this requirement after providing written notice to the Committees on Appropriations of both Houses of Congress.

SEC. 231. Section 2703 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (120 Stat. 469) is amended—

(1) by inserting "(a)" before "Notwithstanding"; and

(2) by adding at the end the following:

"(b) This land shall be owned by the City of Gulfport for no less than 50 years from the date of enactment of this Act.".

SEC. 232. None of the funds made available in this Act may be used to carry out section 111(c)(5) of title 38, United States Code, during fiscal year 2009.

Insert 56A + 56B

56A

Sec. 233. Notwithstanding any other provision of law, authority to carry out activities provided for under section 1703(d)(4) of title 38, United States Code, shall continue in effect until January 31, 2009, unless prior to that date, authorization is enacted into law otherwise extending this authority.

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Sec. 234. Notwithstanding any other provision of law, authority to carry out activities provided for under section 5317(g) of title 38, United States Code, shall continue in effect until January 31, 2009, unless prior to that date, authorization is enacted into law otherwise extending this authority.

# TITLE III

## RELATED AGENCIES

### AMERICAN BATTLE MONUMENTS COMMISSION

#### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $59,470,000, to remain available until expended.

#### FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, such sums as may be necessary, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, $30,975,000, of which $1,700,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $36,730,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally owned water main at Arlington National Cemetery making additional land available for ground burials.

ARMED FORCES RETIREMENT HOME

TRUST FUND

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $63,010,000, of which $8,025,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi.

## TITLE IV

## GENERAL PROVISIONS

SEC. 401. 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. 402. Such sums as may be necessary for fiscal year 2009 for pay raises for programs funded by this Act

shall be absorbed within the levels appropriated in this Act.

SEC. 403. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 404. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 405. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of "E-Commerce" technologies and procedures in the conduct of their business practices and public service activities.

SEC. 406. None of the funds made available in this Act may be transferred to any department, agency, or in-

strumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriations Act.

SEC. 407. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

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[SEC. ___. None of the funds made available in this Act may be used to modify the standards applicable to the determination of the entitlement of veterans to special monthly pensions under sections 1513(a) and 1521(e) of title 38, United States Code, as in effect pursuant to the opinion of the United States Court of Appeals for Veterans Claims in the case of Hartness v. Nicholson (No. 04–0888, July 21, 2006).]

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SEC. ~~408~~. None of the funds made available in this Act may be used for a project or program named for an individual then serving as a Member, Delegate, or Resident Commissioner of the United States Congress.

This division may be cited as the "Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009".