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HOUSE OF REPRESENTATIVES
REPORT
107–218

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2586, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

SEPTEMBER 24, 2001.—Referred to the House Calendar and ordered to be printed

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Mrs. MYRICK, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 246]

The Committee on Rules, having had under consideration House Resolution 246, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for further consideration of H.R. 2586, the National Defense Authorization Act for Fiscal Year 2002.

The rule provides that no further amendment to the committee amendment in the nature of a substitute shall be in order except those printed in this report. Each amendment listed may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against such amendments.

Finally, the rule provides one motion to recommit with or without instructions.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 43

Date: September 24, 2001.
Measure: H.R. 2586.

89–008

Motion by: Mr. Frost.

Summary of motion: To strike the portion of the Stump manager's amendment that amends Subtitle G of the Title III regarding restrictions on DoD's outsourcing and procurement process.

Results: Defeated 4–8.

Vote by Members: Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Hall—Yea; Slaughter—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 44

Date: September 24, 2001.

Measure: H.R. 2586.

Motion by: Mr. Hastings (FL).

Summary of motion: To make in order the amendment by Representatives Gonzalez and Jones (NC) to attend "Interested Party" status to labor organizations who represent DoD Civil Service employees in A–76 cost comparison studies conducted by DoD affording appellate (GAO) and legal rights equal to those of the private contractors against whom they are competing.

Results: Defeated 4–8.

Vote by Members: Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Hall—Yea; Slaughter—Yea; Hastings (FL)—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

(Summaries derived from information provided by sponsors.)

Summary of Manager's Amendment, debatable for 10 minutes

Increases the existing F–22 engineering and manufacturing cost cap so that the Air Force can properly budget to complete required testing, extends the reporting requirement and termination dates for the Commission of the Future of the United States Aerospace Industry, adjusts assumed savings of the sale of stockpile material, clarifies the authorities of the Secretary of Defense with regard to the Department of Defense Medicare-Eligible Retiree Health Care fund, clarifies that the Military Treatment Facilities are included in the trust fund calculations and set the normal cost contribution for any year to be equal to the trust funds outlays for that year, preserves the authority of the Director of Central Intelligence for space reconnaissance and other national intelligence purposes intelligence purposes, strikes current provisions in the bill on A–76 workforce studies and replaces with temporary limits and requires projected cost savings thresholds to be met before proceeding, provides funds for the (CVN–69) refueling, includes a sense of the Congress that DOD should provide appropriate public safety and security for the 2002 Winter Olympics in Salt Lake City, Utah, provides for reengining and avionics modernization for C–5 aircraft, allows for better recruiting access to secondary schools, allows the Secretary of Defense to accept monetary contributions for the purpose of repair and reconstruction of the Pentagon, authorizes the Secretary of the Army to lease a limited number of housing units within the Presidio, and increases operation and maintenance for

nonproliferation and verification R&D within the National Nuclear Security Administration.

Summary of Amendments Made in Order, debatable for the time specified

Stump—Sense of the Congress recognizing the importance of civilians in support of the Armed Forces worldwide. Commends the DOD decision to create a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action. Urges the Secretary of Defense to move expeditiously to produce and award the new medal and to develop a more comprehensive, uniform policy for the award of decorations to military and civilian personnel.

Traficant—Assigns, at the request of the Attorney General and the Secretary of the Treasury, military personnel to assist in patrolling our borders. Provides for the establishment of a task force by either the Treasury Department or the Justice Department for the purpose of counter-terrorism and drug interdiction.

Sanchez—Restores equal access to health services at overseas military hospitals to servicemen and women and their dependents stationed overseas.

Stump/Skelton—Creates a new Title related to activities to combat terrorism. Provides $400 million in new funding for intelligence and anti-terrorism and counter-terrorism initiatives through a reduction in funding for National Missile Defense programs and consulting services. Requires an assessment of Defense Department ability to respond to terrorist attacks, a report on protection from airborne threats, the establishment of combating terrorism as a national security mission, and other policy matters related to combating terrorism.

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STUMP OF ARIZONA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle A of title I (page 18, after line 25), insert the following new section:

SEC. ___. ADDITIONAL AMOUNT FOR SHIPBUILDING AND CONVERSION, NAVY.

(a) INCREASE IN SCN AMOUNT.—The amount provided in section 102(a)(3) for shipbuilding and conversion for the Navy is hereby increased by $57,100,000, to be available for the U.S.S. Eisenhower (CVN–69) Refueling Complex Overhaul program.

(b) OFFSET.—The amount provided in section 301(5) is hereby reduced by $57,100,000, to be derived from amounts for consulting services.

Strike section 121 (page 20, line 2, through page 21, line 2).

At the end of subtitle B of title II (page 27, after line 24), insert the following new sections:

SEC. ___. COST LIMITATION APPLICABLE TO F–22 AIRCRAFT PROGRAM ENGINEERING AND MANUFACTURING DEVELOPMENT.

Section 217(c)(3) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1660) is amended by inserting "plus $250,000,000" after "and (2))".

SEC. ___. C–5 AIRCRAFT MODERNIZATION.

(a) INCREASE IN AIR FORCE RDTE AMOUNT.—The amount provided in section 201(3) for Research, Development, Test, and Evaluation for the Air Force is hereby increased by $30,000,000, to be available for Re-engining and Avionics Modernization for the C-5 aircraft.

(b) OFFSET.—The amount provided in section 301(5) is hereby reduced by $30,000,000, to be derived from amounts for consulting services.

Strike section 331 (page 58, beginning on line 19) and insert the following:

SEC. 331. WORKFORCE REVIEW LIMITATIONS.

(a) LIMITATION PENDING GAO REPORT.—No more than 50 percent of the workforce reviews planned during fiscal year 2002 may be initiated before the date that is the earlier of (1) May 1, 2002, or (2) the date on which the Comptroller General submits to Congress the report required by section 832 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–221), regarding policies and procedures governing the transfer of commercial activities from Government personnel to Federal contractors.

(b) REQUIRED COST SAVINGS LEVEL FOR CHANGE.—(1) A commercial or industrial type function of the Department of Defense may not be changed to performance by the private sector as a result of a workforce review unless, as a result of the cost comparison examination required as part of the review that employed the most efficient organization process described in Office of Management and Budget Circular A–76 or any successor administrative regulation or policy, at least a 10-percent cost savings would be achieved by performance of the function by the private sector over the term of the contract.

(2) The cost savings requirement specified in paragraph (1) does not apply to any contracts for special studies and analyses, construction services, architectural services, engineering services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

(3) The Secretary of Defense may waive the cost savings requirement if—

(A) the written waiver is prepared by the Secretary of Defense, or the relevant Assistant Secretary or agency head; and

(B) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a cost comparison examination.

(C) The Secretary of Defense shall publish a copy of the waiver in the Federal Register.

(c) WORKFORCE REVIEW DEFINED.—In this section, the term "workforce review" with respect to a function of the Department of

Defense performed by Department of Defense civilian employees, means a review conducted under Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy).

Strike subtitle G of title III (page 71, beginning on line 12), relating to the Department of Defense Service Contracting Reform Act of 2001.

At the end of subtitle F of title III (page 71, after line 11), insert the following new section:

SEC. ___. SENSE OF CONGRESS REGARDING SECURITY TO BE PROVIDED AT THE 2002 WINTER OLYMPIC GAMES.

It is the sense of Congress that the Secretary of Defense should provide essential and appropriate public safety and security support for the 2002 Winter Olympic Games in Salt Lake City, Utah.

Page 179, line 18, insert "(a) ACCESS TO DIRECTORY INFORMATION.—" before "Section".

Page 180, after line 3, insert the following:

(b) ENHANCED RECRUITER ACCESS.—Section 503(c)(5) of such title is amended by striking "do not apply to—" and all that follows through "(B)" and inserting "do not apply to".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 2002, immediately after the amendment to section 503(c) of title 10, United States Code, made, effective that date, by section 563(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–131).

Strike section 715 (page 231, beginning on line 8, and all that follows through page 234, line 18) and insert the following new section:

SEC. 715. CLARIFICATIONS AND IMPROVEMENTS REGARDING THE DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) CLARIFICATION REGARDING COVERAGE.—Subsection (b) of section 1111 of title 10, United States Code, is amended to read as follows:

"(b) In this chapter:

"(1) The term 'Department of Defense retiree health care programs' means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care under a Department of Defense or uniformed service program for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.

"(2) The term 'eligible dependent' means a dependent (as such term is defined in section 1072(2) of this title) described in section 1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3).

"(3) The term 'medicare-eligible', with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(4) The term 'participating uniformed service' means the Army, Navy, Air Force, and Marine Corps, and any other uniformed service that is covered by an agreement entered into under subsection (c).".

(b) PARTICIPATION OF OTHER UNIFORMED SERVICES.—(1) Section 1111 of such title is further amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may enter into an agreement with any other administering Secretary (as defined in section 1072(3)) for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. Any such agreement shall require that Secretary to make contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary comparable to the contributions to the Fund made by the Secretary of Defense under section 1116, and such administering Secretary may make such contributions.".

(2) Section 1112 of such title is amended by adding at the end the following new paragraph:

"(4) Amounts paid into the Fund pursuant to section 1111(c).".

(3) Section 1115 of such title is amended—

(A) in subsection (a), by inserting "participating" before "uniformed services";

(B) in subparagraphs (A)(ii) and (B)(ii) of subsection (b)(1), by inserting "under the jurisdiction of the Secretary of Defense" after "uniformed services";

(C) in subsection (b)(2), by inserting "(or to the other executive department having jurisdiction over the participating uniformed service)" after "Department of Defense"; and

(D) in subparagraphs (A) and (B) of subsection (c)(1), by inserting "participating" before "uniformed services".

(4) Section 1116(a) of such title is amended in paragraphs (1)(B) and (2)(B) by inserting "under the jurisdiction of the Secretary of Defense" after "uniformed services".

(c) CLARIFICATION OF PAYMENTS FROM THE FUND.—(1) Subsection (a) of section 1113 of such title is amended to read as follows:

"(a) There shall be paid from the Fund amounts payable for the costs of all Department of Defense retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare eligible, and eligible dependents described in section 1111(b)(3) who are medicare eligible.".

(2) Such section is further amended by adding at the end the following new subsections:

"(c)(1) In carrying out subsection (a), the Secretary of Defense may transfer periodically from the Fund to applicable appropriations of the Department of Defense, or to applicable appropriations of other departments or agencies, such amounts as the Secretary determines necessary to cover the costs chargeable to those appropriations for Department of Defense retiree health care programs for beneficiaries under those programs who are medicare-eligible. Such transfers may include amounts necessary for the administration of such programs. Amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred. Upon a determination that all or part of the funds transferred from the Fund are not necessary for the purposes for which transferred, such amounts may be transferred back to the Fund. This transfer au-

thority is in addition to any other transfer authority that may be available to the Secretary.

"(2) A transfer from the Fund under paragraph (1) may not be made to an appropriation after the end of the second fiscal year after the fiscal year that the appropriation is available for obligation. A transfer back to the Fund under paragraph (1) may not be made after the end of the second fiscal year after the fiscal year that the appropriation to which the funds were originally transferred is available for obligation.

"(d) The Secretary of Defense shall by regulation establish the method or methods for calculating amounts to be transferred under subsection (c). Such method or methods may be based (in whole or in part) on a proportionate share of the volume (measured as the Secretary determines appropriate) of health care services provided or paid for under Department of Defense retiree health care programs for beneficiaries under those programs who are medicare-eligible in relation to the total volume of health care services provided or paid for under Department of Defense health care programs.

"(e) The regulations issued by the Secretary under subsection (d) shall be provided to the Comptroller General not less than 60 days before such regulations become effective. The Comptroller General shall, not later than 30 days after receiving such regulations, report to the Secretary of Defense and Congress on the adequacy and appropriateness of the regulations.

"(f) If the Secretary of Defense enters into an agreement with another administering Secretary pursuant to section 1111(c), the Secretary of Defense may take actions comparable to those described in subsections (c), (d), and (e) to effect comparable activities in relation to the beneficiaries and programs of the other participating uniformed service.".

(d) SOURCE OF FUNDS FOR MONTHLY ACCRUAL PAYMENTS INTO THE FUND.—Section 1116 of such title is further amended—

(1) in subsection (a)(2)(B) (as amended by subsection (b)(7)), by striking the sentence beginning "Amounts paid into"; and

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

"(c) Amounts paid into the Fund under subsection (a) shall be paid from funds available for the health care programs of the participating uniformed services under the jurisdiction of the respective administering Secretaries.".

(e) LIMITATION ON TOTAL AMOUNT CONTRIBUTED DURING A FISCAL YEAR.—Section 1116 of such title is further amended by adding at the end the following new subsection:

"(d) In no case may the total amount of monthly contributions to the Fund during a fiscal year under subsection (a) exceed the amount paid from the Fund during such fiscal year under section 1113.".

(f) TECHNICAL AMENDMENTS.—(1) The heading for section 1111 of such title is amended to read as follows:

"§ 1111. Establishment and purpose of Fund; definitions; authority to enter into agreements".

(2) The item relating to section 1111 in the table of sections at the beginning of chapter 56 of such title is amended to read as follows:

"1111. Establishment and purpose of Fund; definitions; authority to enter into agreements.".

(3) Section 1115(c)(1)(B) of such title is amended by inserting an open parenthesis before "other than for training)".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of chapter 56 of title 10, United States Code, by section 713(a)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–179).

(h) FIRST YEAR CONTRIBUTIONS.—With respect to contributions under section 1116(a) of title 10, United States Code, for the first year that the Department of Defense Medicare-Eligible Retiree Health Care Fund is established under chapter 56 of such title, if the Board of Actuaries is unable to execute its responsibilities with respect to such section, the Secretary of Defense may make contributions under such section using methods and assumptions developed by the Secretary.

At the end of title X (page 307, after line 20), insert the following new sections:

SEC. ___. AMENDMENTS RELATING TO COMMISSION ON THE FUTURE OF THE UNITED STATES AEROSPACE INDUSTRY.

(a) DEADLINE FOR REPORT.—Subsection (d)(1) of section 1092 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–302) is amended by striking "March 1, 2002" and inserting "one year after the date of the first official meeting of the Commission".

(b) TERMINATION OF COMMISSION.—Subsection (g) of such section is amended by striking "30 days" and inserting "60 days".

SEC. ___. AUTHORITY TO ACCEPT MONETARY CONTRIBUTIONS FOR REPAIR AND RECONSTRUCTION OF PENTAGON RESERVATION.

Section 2674(e) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary of Defense may accept monetary contributions made for the purpose of assisting to finance the repair and reconstruction of the Pentagon Reservation following the terrorist attack that occurred on September 11, 2001. The Secretary shall deposit such contributions in the Fund."; and

(3) in paragraph (3), as redesignated, by inserting at the end the following new sentence: "However, contributions accepted under paragraph (2) shall be available for expenditure only for the purpose specified in such paragraph.".

At the end of title XIV (page 348, after line 8), insert the following new section:

SEC. 1408. RELATIONSHIP TO AUTHORITIES AND RESPONSIBILITIES OF DIRECTOR OF CENTRAL INTELLIGENCE.

Nothing in this title or the amendments made by this title shall modify, alter, or supersede the authorities and responsibilities of the Director of Central Intelligence.

Strike section 2863 (page 424, line 9, through page 426, line 6), and insert the following new section:

SEC. 2863. MANAGEMENT OF THE PRESIDIO OF SAN FRANCISCO.

(a) AUTHORITY TO LEASE CERTAIN HOUSING UNITS FOR USE AS ARMY HOUSING.—Title I of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 460bb note) is amended by adding at the end the following new section:

"SEC. 107. CONDITIONAL AUTHORITY TO LEASE CERTAIN HOUSING UNITS WITHIN THE PRESIDIO.

"(a) AVAILABILITY OF HOUSING UNITS FOR LONG-TERM ARMY LEASE.—Subject to subsection (c), the Trust shall make available for lease, to those persons designated by the Secretary of the Army and for such length of time as requested by the Secretary of the Army, 22 housing units located within the Presidio that are under the administrative jurisdiction of the Trust and specified in the agreement between the Trust and the Secretary of the Army in existence as of the date of the enactment of this section.

"(b) LEASE AMOUNT.—The monthly amount charged by the Trust for the lease of a housing unit under this section shall be equivalent to the monthly rate of the basic allowance for housing that the occupant of the housing unit is entitled to receive under section 403 of title 37, United States Code.

"(c) CONDITION ON CONTINUED AVAILABILITY OF HOUSING UNITS.—Effective after the end of the four-year period beginning on the date of the enactment of this section, the Trust shall have no obligation to make housing units available under subsection (a) unless, during that four-year period, the Secretary of the Treasury purchases new obligations of at least $80,000,000 issued by the Trust under section 104(d)(2). In the event that this condition is not satisfied, the existing agreement referred to in subsection (a) shall be renewed on the same terms and conditions for an additional two years.".

(b) INCREASED BORROWING AUTHORITY AND TECHNICAL CORRECTIONS.—Paragraphs (2) and (3) of section 104(d) of title I of division I of the Omnibus Parks and Public Lands Management Act of 1996, as amended by section 334 of appendix C of Public Law 106–113 (113 Stat. 1501A–199) and amended and redesignated by section 101(13) of Public Law 106–176 (114 Stat. 25), are amended—

(1) in paragraph (2), by striking "including a review of the creditworthiness of the loan and establishment of a repayment schedule," the second place it appears; and

(2) in paragraph (3)—

(A) by striking "$50,000,000" and inserting "$150,000,000"; and

(B) by striking "paragraph (3) of".

At the end of subtitle A of title XXXI (page 461, after line 6), insert the following new section:

SEC. ___. INCREASED AMOUNT FOR NONPROLIFERATION AND VERIFICATION.

(a) NATIONAL NUCLEAR SECURITY ADMINISTRATION.—The amounts provided in section 3101 for activities of the National Nuclear Security Administration, and in paragraph (2) of that section for defense nuclear nonproliferation, are each hereby increased by $10,000,000, for operation and maintenance for nonproliferation and verification research and development (and the amounts pro-

vided in subparagraph (A) of such paragraph (2) and in clause (i) of such subparagraph are each hereby increased by such amount).

(b) OFFSET.—The amount provided in section 301(5) is hereby reduced by $10,000,000, to be derived from amounts for consulting services.

Strike section 3304 (page 483, lines 9 through 16) and insert the following new section:

SEC. 3304. EXPEDITED IMPLEMENTATION OF AUTHORITY TO DISPOSE OF COBALT FROM NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORIZED DURING FISCAL YEAR 2002.—Subsection (a)(1) of section 3305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note) is amended by striking "fiscal year 2003" and inserting "the two-fiscal year period ending September 30, 2003".

(b) LIMITATIONS ON DISPOSAL AUTHORITY.—Subsection (b)(1) of such section is amended by adding at the end the following new sentence: "The total quantity of cobalt disposed of under such subsection during fiscal year 2002 may not exceed 700,000 pounds.".

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STUMP OF ARIZONA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle E of title V (page 161, after line 12), insert the following new section:

SEC. ___. SENSE OF CONGRESS ON NEW MEDAL TO RECOGNIZE CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE KILLED OR WOUNDED AS A RESULT OF HOSTILE ACTION.

(a) FINDINGS.—Congress makes the following findings:

(1) The role and importance of civilian nationals of the United States as Federal employees and contractors in support of operations of the Armed Forces worldwide has continued to expand.

(2) The expanded role performed by those civilians, both in the United States and overseas, has greatly increased the risk to those civilians of injury and death from hostile actions taken against United States Armed Forces, as demonstrated by the terrorist attack on the Pentagon on September 11, 2001, in which scores of Department of Defense civilian and contractor personnel were killed or wounded.

(3) No decoration exists for the recognition of civilian nationals of the United States who, while serving under competent authority in any capacity with the Armed Forces, are killed or wounded in the line of duty under circumstances which, if they were members of the Armed Forces, would qualify them for the award of the Purple Heart.

(4) Both the Congress and the Secretary of Defense have previously agreed to the need for such a decoration.

(5) On September 20, 2001, the Deputy Secretary of Defense approved the creation of a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action and at the same time directed that a comprehensive review be conducted to develop a more uniform approach to the award of decorations to military and civilian personnel of the Department of Defense.

(b) COMMENDATION OF CREATION OF NEW AWARD.—Congress commends the decision announced by the Deputy Secretary of Defense on September 20, 2001, to approve the creation of a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense—

(1) should move expeditiously to produce and award the new medal referred to in subsection (b); and

(2) should develop a more comprehensive, uniform policy for the award of decorations to military and civilian personnel of the Department of Defense.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TRAFICANT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle C of title X (page 271, after line 17), insert the following new section:

SEC. ___. ASSIGNMENT OF MEMBERS TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

"§ 374a. Assignment of members to assist border patrol and control

"(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

"(1) the Immigration and Naturalization Service in preventing the entry of terrorists and drug traffickers into the United States; and

"(2) the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

"(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

"(1) the assignment is at the request of the Attorney General, in the case of an assignment to the Immigration and Naturalization Service, or the Secretary of the Treasury, in the case of an assignment to the United States Customs Service; and

"(2) the request of the Attorney General or the Secretary of the Treasury (as the case may be) is accompanied by a certification by the President that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists or drug traffickers.

"(c) TRAINING PROGRAM REQUIRED.—The Attorney General or the Secretary of the Treasury (as the case may be), together with the Secretary of Defense, shall establish a training program to ensure

that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

"(d) CONDITIONS OF USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Immigration and Naturalization Service or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

"(2) Nothing in this section shall be construed to—

"(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

"(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

"(e) ESTABLISHMENT OF ONGOING JOINT TASK FORCES.—(1) The Attorney General or the Secretary of the Treasury may establish ongoing joint task forces when accompanied by a certification by the President that the assignment of members pursuant to the request to establish a joint task force is necessary to respond to a threat to national security posed by the entry into the United States of terrorists or drug traffickers.

"(2) When established, any joint task force shall fully comply with the standards as set forth in this section.

"(f) NOTIFICATION REQUIREMENTS.—The Attorney General or the Secretary of the Treasury (as the case may be) shall notify the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a), and local governments in the deployment area, of the deployment of the members to assist the Immigration and Naturalization Service or the United States Customs Service (as the case may be) and the types of tasks to be performed by the members.

"(g) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

"(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2004.".

(b) COMMENCEMENT OF TRAINING PROGRAM.—The training program required by subsection (b) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

"374a. Assignment of members to assist border patrol and control.".

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SANCHEZ OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title VII (page 234, after line 18), insert the following new section:

SEC. 7___. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting "in the United States" after "Defense".

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STUMP OF ARIZONA, OR REPRESENTATIVE SKELTON OF MISSOURI, OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

At the end of division A (page 348, after line 8), insert the following new title:

TITLE XV—ACTIVITIES TO COMBAT TERRORISM

Subtitle A—Increased Funding to Combat Terrorism

SEC. 1501. INCREASED FUNDING.

(a) IN GENERAL.—The amount provided in section 301(5) for Operation and Maintenance, Defense-wide Activities, is hereby increased by $400,000,000, to be available as follows:

(1) INTELLIGENCE PROGRAMS.—For increased situational awareness and upgrades to intelligence programs to enhance United States security posture, $100,000,000.

(2) ANTI-TERRORISM INITIATIVES.—For enhanced anti-terrorism and force protection initiatives to reduce vulnerabilities at United States military installations and facilities in the United States and worldwide, $150,000,000.

(3) COUNTER-TERRORISM INITIATIVES.—For offensive counter-terrorism initiatives, $100,000,000.

(4) CONSEQUENCE MANAGEMENT ACTIVITIES.—For consequence management activities, $50,000,000.

(b) TRANSFER AUTHORITY.—The amounts specified in subsection (a) are available for transfer to other current accounts of the Department of Defense, as determined by the Secretary of Defense.

(c) OFFSETTING REDUCTIONS.—

(1) The amount provided in section 201(4) for Research, Development, Test, and Evaluation, Defense-Wide is hereby reduced by $265,000,000, to be derived from amounts for the Ballistic Missile Defense Organization, of which—

(A) $145,000,000 shall be derived from the Mid-Course Defense Segment program element (PE603882C); and

(B) $120,000,000 shall be derived from the Boost Phase Defense Segment program element (PE603883C) for space-based activities.

(2) The amount provided in section 301(5) for Operation and Maintenance, Defense-wide Activities, is hereby reduced by $135,000,000, to be derived from amounts for consulting services.

SEC. 1502. TREATMENT OF TRANSFERRED AMOUNTS.

Funds transferred under authority of section 1501(a) shall be merged with, and shall be available for the same time period as, the appropriations to which transferred. The transfer authority under that section is in addition to the transfer authority provided by section 1001.

Subtitle B—Policy Matters Relating to Combating Terrorism

SEC. 1511. ASSESSMENT OF DEPARTMENT OF DEFENSE ABILITY TO RESPOND TO TERRORIST ATTACKS.

(a) ASSESSMENT.—The Secretary of Defense shall conduct an assessment of the ability of the Department of Defense to provide support for the consequence management activities of other Federal, State, and local agencies, directly taking into account the terrorist attacks on the United States on September 11, 2001, and the changed situation regarding terrorism.

(b) RECOMMENDATIONS.—The Secretary of Defense shall submit to the President and Congress a report providing recommendations for ways to enhance the ability of the Department of Defense to provide support described in subsection (a). The report shall address the recommendations made by the Vice President in his report to the President on the development of a coordinated national effort to improve national preparedness, including efforts to combat terrorism, as directed by the President in May 2001. The report shall be submitted not later than 60 days after the date on which the Vice President submits to the President the report under the preceding sentence.

SEC. 1512. REPORT ON DEPARTMENT OF DEFENSE ABILITY TO PROTECT THE UNITED STATES FROM AIRBORNE THREATS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the ability of the Department of Defense to protect the United States from airborne threats, including threats originating from within the borders of the United States. The report shall identify improvements that can be made to enhance the security of the American people against these threats and shall recommend actions, including legislative proposals, designed to address and overcome existing vulnerabilities.

SEC. 1513. ESTABLISHMENT OF COMBATING TERRORISM AS A NATIONAL SECURITY MISSION.

Section 108(b)(2) of the National Security Act of 1947 (50 U.S.C. 404a(b)(2)) is amended by inserting ", including acts of terrorism," after "aggression".

SEC. 1514. DEPARTMENT OF DEFENSE COORDINATION WITH FEMA AND FBI.

The Secretary of Defense shall seek an agreement with the Director of the Federal Bureau of Investigation and the Director of Federal Emergency Management Agency that clarifies the roles of Department of Defense Weapons of Mass Destruction Civil Support Teams in relation to both agencies with respect to coordination of the roles and missions of those teams in support of crisis management and consequence management efforts.

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