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Folder Title: 01/10/2002 [H.R. 3338] [1]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Statement	[Draft re: H.R. 3338]	4	N.D.	P5;
002	Statement	[Draft statement of administration policy re: H.R. 3338]	7	November 2001	P5;
T003	Statement	H.R. 3338 Signing Statement - From: The White House	1	01/10/2002	Transferred

COLLECTION TITLE:

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SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

01/10/2002 [H.R. 3338] [1]

FRC ID:

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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors; or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

January 8, 2002

THE PRESIDENT HAS SEEN

1-10-02

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3338 -- Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, FY 2002

Sponsors: Representative Lewis (R), California
Senator Inouye (D), Hawaii

Last Day for Action

While the last day for action is January 18, 2002 -- Friday, I recommend that you sign this bill before Thursday, January 10th as funding for the agencies and accounts covered by the enrolled bill is currently provided under P.L. 107-97, the eighth FY 2002 Continuing Resolution, which will expire at midnight on Thursday, January 10th.

Purpose

Provides FY 2002 appropriations for the Department of Defense and emergency supplemental appropriations, totaling \$20 billion, in fulfillment of the requirements of P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Defense	Approval
Department of Housing and Urban Development	Approval
Department of Health and Human Services	Approval
Department of Justice	Approval
Department of Transportation	Approval
Department of the Treasury	Approval
Federal Emergency Management Agency	Approval
National Security Council	Approval
Other affected agencies	Approval (assumed)

The House and the Senate adopted the conference report on H.R. 3338 on December 20th by votes of 408-6 and 94-2, respectively.

FY 2002 Defense Appropriations

H.R. 3338 provides \$317.2 billion in discretionary budget authority for FY 2002, \$1.9 billion less than your request and \$29.7 billion above the FY 2001 enacted level. This level remains within the agreed-upon aggregate funding level of \$686 billion and the agreed upon level enacted in P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001. In several areas, it is largely in line with the Administration's defense priorities. In particular, Congress agreed to support your pay initiative, which will improve the quality of life for America's military service members.

The bill provides your request of \$61.6 billion for Procurement and \$48.8 billion for Research, Development, Test and Evaluation programs, \$1.4 billion above your request. The \$48.8 billion for R&D includes \$7.8 billion for missile defense, \$0.5 billion below the request, with reductions to the Sea-based Midcourse System, Space-Based Laser, and the recently-terminated Navy Area Defense program.

As discussed in more detail below, the Congress provided additional supplemental funding to respond to the September 11th attacks and did not exceed the agreed upon level of \$20 billion provided in P.L. 107-38. You requested \$7.3 billion for the Department of Defense that is urgently needed to prosecute the war on terrorism. However, the Congress provided only \$3.5 billion of that request and imposed reprogramming restrictions.

Military Personnel

The military personnel accounts are funded at \$82.1 billion, \$250.6 million less than your requested level. The largest reductions were made for personnel underexecution (\$313.2 million) and permanent change of station moves (\$180.0 million). Congress added funds, however, for some additional National Guard and reserve support and for operations in the Balkans.

Operations and Maintenance (O&M)

Most of the reductions in the bill fell upon key O&M programs. These reductions assume savings for foreign currency fluctuation, utilities, and more efficient contract management, but they are grossly overstated and not achievable in the current fiscal year. The military departments will be forced within each O&M account to cover the legislated reductions and will likely reduce base operations, depot maintenance, and real property maintenance accounts as the Services make every effort to maintain near-term readiness. This may increase the backlog in facilities and equipment maintenance and ultimately increase repair costs.

Procurement Programs

The enrolled bill provides \$61.6 billion for Procurement, the same level as your request. The enrolled bill includes:

- \$891 million for the Army's Longbow Apache helicopter;
- \$663 million for the Army's Interim Armored Vehicle;

- \$783 million to procure nine MV-22 tilt-rotor aircraft; ✓
- \$395 million (\$280 million more than your request) to proceed with the conversion of four Trident submarines to guided missile submarines (SSGNs); ✓
- \$3.0 billion for procurement of 48 Navy F/A 18E/F fighter aircraft; ✓
- \$2.8 billion for procurement of 13 F-22 fighter aircraft for the Air Force; ✓
- \$2.8 billion for procurement of 15 C-17 airlift aircraft;
- \$3.0 billion to build three DDG-51 destroyers; and
- \$729 million to fund cost growth for Navy ships started in prior years.

Research and Development Programs

The bill provides \$48.8 billion for Research, Development, Test and Evaluation programs, \$1.4 billion above your request. The bill includes:

- \$627 million for V-22 development;
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- \$788 million for the Army's Comanche helicopter;
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- \$882 million for the Air Force's F-22 Raptor fighter aircraft;
- \$445 million for the Space Based Infrared System-High missile detection satellite; and
- \$315 million for the Evolved Expendable Launch Vehicle (booster rocket) Program.

Program and Other Reductions

The enrolled bill reduces funding for several modernization programs, including a \$125 million reduction to the Navy's next-generation destroyer development program; a reduction of \$226 million for procurement of three V-22 tilt rotor aircraft; and a \$70 million reduction in development of the Advanced EHF MILSATCOM program (an Air Force communications satellite).

The bill also cut \$639 million from the request for the Defense Working Capital Funds. This funding was requested to restore the cash balances of the Defense Logistics Agency, which were drawn down as it sold fuel to the military services below cost in prior years. If actual fuel prices exceed budgeted estimates, this reduction would increase the risk this year that the Working Capital Funds will not be able to support increased operations satisfactorily.

Missile Defense

The enrolled bill provides \$7.8 billion for missile defense, \$0.5 billion below your request. The bill provides the \$3.2 billion request for Land-based Midcourse systems, and increases funds for the Airborne Laser, Arrow, and Patriot Advanced Capability-3 programs. The bill reduces funding for the Sea-based Midcourse system and Space-Based Laser programs by \$120 million each below your request. The enrolled bill also eliminates \$288 million in funding requested from the Navy Area missile defense program; this reduction is consistent with

the Defense Department's recent decision to terminate this program due to large projected cost increases

Although the bill does not include the \$385 million requested for Space Based Infra-Red System-Low (SBIRS-Low) missile warning satellites, it allows DoD to continue to develop technologies associated with SBIRS-Low under a new \$250 million Satellite Sensor Technology program. Contrary to the Administration's proposal, the bill transfers several programs from the Military Services to the Ballistic Missile Defense Organization.

Leasing of Boeing 767 and 737 Aircraft

Section 8159 of the bill authorizes the Secretary of Defense to enter into an operating lease for up to 100 general purpose Boeing 767 and four Boeing 737 aircraft. The Air Force would convert the 767 aircraft to a tanker configuration. However, the Air Force would have to return the aircraft in its original configuration to Boeing at the end of the lease period -- a maximum of 10 years. While the provision makes clear that any lease for either type of aircraft must be consistent with the criteria for an operating lease, our analysis indicates that acquiring these aircraft through operating leases may be cost prohibitive.

International Criminal Court

The bill includes a provision of foreign policy concern. Section 8173 prohibits the use of appropriated funds for cooperation with, or assistance or other support to, the International Criminal Court (ICC). While section 8173 clearly reflects that Congress agrees with the Administration that it is not in the interests of the United States to become a party to the ICC treaty, this provision must be applied consistent with your constitutional authority in the area of foreign affairs, which, among other things, will enable you to take actions to protect U.S. nationals from the purported jurisdiction of the treaty.

FY 2002 Emergency Supplemental Appropriations

P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001, provided a total of \$40 billion in emergency funding to the Emergency Response Fund. As required by P.L. 107-38, you designated the entire \$40 billion as an emergency funding requirement on September 18, 2001. To date, the Administration has transferred \$19.7 billion of the first \$20 billion, which was made available to agencies, without requiring any further congressional action, to address the immediate needs and consequences of the attacks.

Overall, the supplemental portion of this enrolled bill provides \$20.0 billion in emergency discretionary budget authority, the total requested by the Administration. Of this amount, the bill provides: \$3.5 billion for the Department of Defense; \$8.2 billion for New York, Virginia, Maryland, Pennsylvania, and the District of Columbia; and \$8.4 billion for homeland security activities.

reimbursement to hospitals impacted by the terrorist attacks; and, \$200.0 million for the District of Columbia, \$175.0 million above the request. The bill provides:

- \$200 million for the District of Columbia, including funds for first responder equipment, training and a land-line and wireless communication system and funds for improvements in emergency traffic management, increased facility security at District buildings and public schools, and increased security measures within the Washington Metropolitan Transit Area Authority subway and bus system;
- \$4.4 billion for FEMA's emergency response, debris removal and public infrastructure repair efforts and \$210 million in unrequested funding for FEMA's firefighter grant program to provide emergency planning assistance;
- \$175 million for the New York State Compensation Review Board for the processing and payment of claims related to the attacks;
- \$150 million for Small Business Administration disaster and business assistance; and,
- \$32.5 million for training and employment services for New York City area workers displaced as a result of the September 11th attacks.

Homeland Security

The bill provides \$8.4 billion for homeland security activities. Funds for border security include: \$361.8 million for the U.S. Customs Service for increased border and seaport inspections and other counter-terror activities, \$285.1 million more than your request; \$209.0 million for the Coast Guard, \$6.0 million above the request; \$549.4 million for the Immigration and Naturalization Service, for an increased border presence at the northern and southwestern borders and counter-terrorism initiatives, \$150.0 million above the request; and \$93.0 million for grants to U.S. seaports for security assessments and enhancements

The bill provides additional funding to prepare for, and prevent, any future terrorist attacks. The Federal Bureau of Investigation will receive \$745.0 million, \$206.5 million over the request, to apprehend terrorists, preempt terrorist activity, and protect our Nation's infrastructure – including its information infrastructure – from terrorist attack. The bill provides \$160.7 million, \$43.0 million above the request, for the Department of Energy to enhance the physical and cyber-security of key facilities and nuclear materials and to continue the development of systems to detect biological attacks. EPA will receive \$174.6 million, \$99.6 million over the request, which includes funds to work States to assess the vulnerability of large drinking water systems. To support State and local first responders, the bill provides \$651.0 million to the Department of Justice, of which \$251 million is earmarked for New York, New Jersey, Virginia, Maryland, Pennsylvania, and Utah, and an additional \$189.0 million is earmarked for other projects. The bill also includes \$500.0 million for emergency expenses for the U.S. Postal Service for repair of facilities destroyed in the terrorist attacks and to mitigate current and future biohazardous threats.

Over \$2.6 billion is provided for public health and bioterrorism activities, \$1 billion above your request. The bill includes \$593 million for the National Pharmaceutical Stockpile and \$512 million to purchase smallpox vaccine. The bill provides \$1 billion for State and local preparedness, including State and local lab capacity, communication systems, preparedness and

reimbursement to hospitals impacted by the terrorist attacks; and, \$200.0 million for the District of Columbia, \$175.0 million above the request. The bill provides:

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planning, and \$135 million to improve hospital preparedness. Additional resources above your request will enhance biomedical research, including next generation vaccine research. The bill provides \$100 million for upgrading laboratory capacity at the Centers for Disease Control and Prevention (CDC) and \$84 million for security upgrades at CDC, the National Institutes of Health, and the Food and Drug Administration (FDA). The bill also provides \$138 million for FDA to improve food safety inspection and expedite drug review and approval. The bill also addresses your request for enhancing the capabilities of Federal and local public health response teams.

The bill provides \$108.5 million, as requested, to improve airport security through the purchase and installation of explosives detection systems in airports. The bill also includes \$175 million in unrequested funding to reimburse airports for the cost of security upgrades. The bill provides \$100 million - -\$200 million below your request- - for your commitment to improve airplane cockpit security, and another \$65 million in unrequested funding is provided to help hire additional Federal air marshals.

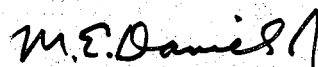
The bill increases security funding for all three branches of the Federal Government: \$92.5 million for security requirements of the Federal Judiciary and the Supreme Court; \$256 million for Legislative Branch security and an additional 195 employees for the U.S. Capitol Police; \$50.4 million for the Executive Office of the President, equal to your request; and \$126 million for General Services Administration for increased security at Federal buildings.

The bill also includes language on the Homestake Mine in South Dakota. The language would transfer unprecedented and virtually unlimited liability for environmental clean-up and tort claims to the American taxpayer, even where the liability is unrelated to actions of the U.S. government.

Recommendation

On balance, while H.R. 3338 reduces certain DoD funding, it provides adequate overall funding for your defense programs. The bill also abides by the agreed upon aggregate funding level for Fiscal Year 2002 of \$686 billion and continues recovery from the terrorist attacks by appropriating the \$20.0 billion provided in P.L. 107-38. I join the heads of the affected Departments and agencies in recommending approval of the enrolled bill. A signing statement is attached for your consideration.

Sincerely,



Mitchell E. Daniels, Jr.
Director

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

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The bill provides additional funding to prepare for, and prevent, any future terrorist attacks. The Federal Bureau of Investigation will receive \$745.0 million, \$206.5 million over the request, to apprehend terrorists, preempt terrorist activity, and protect our Nation's infrastructure – including its information infrastructure – from terrorist attack. The bill provides \$160.7 million, \$43.0 million above the request, for the Department of Energy to enhance the physical and cyber-security of key facilities and nuclear materials and to continue the development of systems to detect biological attacks. EPA will receive \$174.6 million, \$99.6 million over the request, which includes funds to work States to assess the vulnerability of large drinking water systems. To support State and local first responders, the bill provides \$651.0 million to the Department of Justice, of which \$251 million is earmarked for New York, New Jersey, Virginia, Maryland, Pennsylvania, and Utah, and an additional \$189.0 million is earmarked for other projects. The bill also includes \$500.0 million for emergency expenses for the U.S. Postal Service for repair of facilities destroyed in the terrorist attacks and to mitigate current and future biohazardous threats.

Over \$2.6 billion is provided for public health and bioterrorism activities, \$1 billion above your request. The bill includes \$593 million for the National Pharmaceutical Stockpile and \$512 million to purchase smallpox vaccine. The bill provides \$1 billion for State and local preparedness, including State and local lab capacity, communication systems, preparedness and

planning, and \$135 million to improve hospital preparedness. Additional resources above your request will enhance biomedical research, including next generation vaccine research. The bill provides \$100 million for upgrading laboratory capacity at the Centers for Disease Control and Prevention (CDC) and \$84 million for security upgrades at CDC, the National Institutes of Health, and the Food and Drug Administration (FDA). The bill also provides \$138 million for FDA to improve food safety inspection and expedite drug review and approval. The bill also addresses your request for enhancing the capabilities of Federal and local public health response teams.

The bill provides \$108.5 million, as requested, to improve airport security through the purchase and installation of explosives detection systems in airports. The bill also includes \$175 million in unrequested funding to reimburse airports for the cost of security upgrades. The bill provides \$100 million - \$200 million below your request - for your commitment to improve airplane cockpit security, and another \$65 million in unrequested funding is provided to help hire additional Federal air marshals.

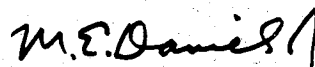
The bill increases security funding for all three branches of the Federal Government: \$92.5 million for security requirements of the Federal Judiciary and the Supreme Court; \$256 million for Legislative Branch security and an additional 195 employees for the U.S. Capitol Police; \$50.4 million for the Executive Office of the President, equal to your request; and \$126 million for General Services Administration for increased security at Federal buildings.

The bill also includes language on the Homestake Mine in South Dakota. The language would transfer unprecedented and virtually unlimited liability for environmental clean-up and tort claims to the American taxpayer, even where the liability is unrelated to actions of the U.S. government.

Recommendation

On balance, while H.R. 3338 reduces certain DoD funding, it provides adequate overall funding for your defense programs. The bill also abides by the agreed upon aggregate funding level for Fiscal Year 2002 of \$686 billion and continues recovery from the terrorist attacks by appropriating the \$20.0 billion provided in P.L. 107-38. I join the heads of the affected Departments and agencies in recommending approval of the enrolled bill. A signing statement is attached for your consideration.

Sincerely,



Mitchell E. Daniels, Jr.
Director

Attachment

WHITE HOUSE STAFFING MEMORANDUM

Date: 12-05-01ACTION / CONCURRENCE / COMMENT DUE BY: 12-06-01 8:00 AMSubject: H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FY2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO DANIELLE SIMONETTA, X54790, BY 8:00 A.M., THURSDAY, DECEMBER 6, 2001, WITH A COPY TO THE STAFF SECRETARY. THANKS.

RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702

December xx, 2001
(Senate Floor)

H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FY 2002

(Sponsors: Byrd (D), West Virginia; Stevens (R), Alaska)

This Statement of Administration Policy provides the Administration's views on the Department of Defense Appropriations Bill, FY 2002, as reported by the Senate Appropriations Committee.

The Administration has worked, and will continue to work, with the Congress to ensure that FY 2002 discretionary spending is within the agreed upon bipartisan level of \$686 billion and that the emergency supplemental funding total remains within the agreed upon level enacted in P.L. 107-38, the FY 2001 Emergency Supplemental Appropriations Act for Recovery from the tragedy that occurred on September 11, 2001. **If the final bill presented to the President exceeds either of the agreed upon spending levels, the President will veto the bill.**

In the immediate aftermath of the September 11th tragedy, the President established the Office of Homeland Security to develop and coordinate a comprehensive national strategy for homeland security. As part of that effort, the Office has begun a government-wide assessment of the nation's current preparedness for terrorist attacks. In the coming weeks and months the Office will be making specific recommendations for changes and reforms that will increase our security against the full range of potential terrorist attacks. The timing, content, and level of any additional resources beyond the \$20 billion requested cannot be ascertained and should not be prejudged until after the Administration has had time to complete this comprehensive analysis of need, and share it with the Congress.

FY 2002 Emergency Supplemental

The Administration urges the Senate to expeditiously enact supplemental funding to respond to the September 11th attacks that totals no more than the Administration-requested and House-passed \$20 billion level. The Committee bill exceeds this total by approximately \$15 billion. This additional funding is not needed at this time and should be removed from the bill. As of the end of November 2001, the Administration estimated that it has spent less than 16 percent of the \$40 billion designated by Congress to respond to the September 11th attacks. In addition, many of the costs associated with the response to and recovery from the attacks will not be known for many months and, therefore, the agencies will be unable to target additional funds to these needs.

The President would veto any bill that includes amendments that would add funding above the agreed upon level, including contingent emergency funding and funding that would be advance appropriated into FY 2003. The Homeland Security Director is

conducting an intensive examination of the nation's homeland security needs and, based on that examination, the Administration will not hesitate to ask for additional funding as needed. In addition to preempting the role of the Homeland Security Director, this particular step would be at complete and ironic variance with the notion that this extra money is needed immediately. We will continue to work with the Congress to address the most immediate and pressing needs that have arisen as a result of the September 11th terrorist attacks.

The Committee bill provides the following amounts that were not requested by the President, and are not needed at this time:

- \$8.4 billion for Federal Emergency Management Agency's (FEMA's) Disaster Relief program. The Administration has requested almost \$7 billion already, and given that the total cost of recovery efforts in New York, Virginia, and elsewhere is not yet known, and it is unclear how or where these additional funds will be spent -- the request of such funds is premature;
- \$2.0 billion over the Administration's request for the Department of Health and Human Services to increase funding for bio-terrorism and other activities. The Administration's request included \$644 million to acquire medicines, supplies, and equipment for the National Pharmaceutical Stockpile to treat an additional 10 million persons exposed to Anthrax and other bacterial infections, and to provide an enhanced ability to treat victims of chemical attacks, including \$65 million to prepare states to receive and distribute pharmaceuticals and \$509 million to acquire enough smallpox vaccine for the country.
- \$1.5 billion for the Department of Justice. The Administration believes these additional funds cannot be effectively utilized in FY 2002. The Administration also objects to the \$237 million in State and Local Law Enforcement Assistance funding -- this funding is earmarked for unrequested projects that will have little or no tangible impact on preventing or responding to terrorism;
- \$875 million for the U.S. Postal Service to build and establish a system for sanitizing and screening mail and other security measures. It is not yet clear what type and mix of mail sanitization and/or detection is most appropriate to safeguard the U.S. mail system -- clearly an example of where we should wait for recommendations from the Office of Homeland Security. Under these circumstances, appropriations of this magnitude are unwarranted; and,
- \$175 million for the District of Columbia. The Administration believes that the amount requested (\$25 million), in addition to the amounts already provided (\$19 million), is sufficient to respond to the District's short-term needs, and that the Senate level is excessive.

The Administration strongly urges the Senate to provide \$550 million in funding for first responders to FEMA and not to the Department of Justice, as the Committee has designated. FEMA has wide experience working with the full spectrum of first responders, including fire,

police, and emergency medical technicians. FEMA's experience will help ensure better coordination and delivery of assistance. The Administration is also concerned that \$78 million of the Justice funding is earmarked for specific projects, which will seriously hamper the Administration's flexibility in working with State and local agencies to address unforeseen needs and vulnerabilities.

In addition, the Administration urges the Senate to eliminate section 902, which would eliminate the Defense Secretary's authority provided for in section 2808 of Title 10, to begin emergency military construction projects that are not previously authorized but are necessary to fight the war against terrorism. Secretary Rumsfeld has already invoked this authority to begin such military construction projects. Section 902 would tie the Secretary's hands at precisely the time when he most needs the flexibility to support our armed forces in the war on terrorism.

FY 2002 Defense Appropriations Bill

While the Committee bill includes important funding for many of the Administration's highest priorities, the bill provides approximately \$2.0 billion less for DoD programs in FY 2002 than requested by the President. These reductions are largely achieved through unspecified management savings of \$1.65 billion that cannot be implemented within this fiscal year. These reductions would make it more difficult for the Department to carry out transformation of America's armed forces and defense posture to counter 21st Century threats. The Administration also strongly objects to provisions in the bill, including Section 902 discussed above, that will impinge upon the Defense Secretary's ability and, ultimately, the President's ability, to prosecute the war on terrorism and defend the homeland. The Administration urges that these provisions be deleted.

The Administration is pleased that the Senate chose to fund both the basic and targeted pay raises fully for our service members as requested in the President's budget. The Administration also appreciates the inclusion of funding for changes to the military pay table and to reduce the out-of-pocket housing expenditures of service members. Likewise, we commend the Senate for ensuring that TRICARE for Life is adequately funded. Additional concerns are discussed below.

Operation and Maintenance

The Committee has made reductions to Operation and Maintenance (O&M) programs, based on unrealistic assumptions of how much savings could be achieved through reductions in consultant services, foreign currency fluctuation account balances, and travel. These reductions would undermine DoD's ability to adequately fund training, operations, maintenance, supplies, and other essentials. They would seriously damage the readiness of our armed forces and undermine their ability to execute current operations, including the war on terrorism. In addition, the Committee reduction of \$46 million to Cooperative Threat Reduction programs would hamper the Administration's efforts to increase nuclear warhead storage security in Russia and eliminate Russian production of weapons-grade plutonium.

Missile Defense

The President is committed to the development and deployment of effective missile defenses to protect the United States, our forces, and our friends and allies as soon as possible. Missile defense remains one of the Administration's highest priorities. As such, the Administration urges the Senate to support funding missile defense programs as requested in the President's budget.

Contingency Funding

The Administration believes that moving all contingency operation funding from the Overseas Contingency Operations Transfer Fund (OCOTF) to the Service operation and maintenance accounts, is premature. A separate account has been helpful to track and prudently fund the incremental costs of such operations. The Administration moved the long-running Southwest Asia operation portion of funding out of OCOTF and into the Service accounts in FY 2001. However, before totally eliminating this separate account, the Administration believes it would be prudent to assess a full year of funding execution from the Southwest Asia operation in order to weigh the pros and cons of such an approach.

Additionally, the Administration opposes the Committee's \$600 million OCOTF cut, which is based on unobligated balances and undefined project savings. Unobligated balances, which are a normal aspect of no-year cash accounts, are taken into consideration in planning the subsequent year's operations. Without these funds, the Department may be unable to meet emerging requirements in either the Balkans or for unforeseen costs in Operation Enduring Freedom.

Military Personnel

The Administration is very concerned about the \$340 million reduction in military personnel programs. In particular, the bill would significantly reduce Permanent Change of Station funding. While the Administration shares the Congress' concerns about the impact of frequent Permanent Changes of Station on morale, at a time when deployments are at a peak due to war, arbitrary reduction to force a policy change is risky. Reductions to this program, which is integral to military training and development, would adversely impact the Services' ability to correctly rotate and fill military billets and training seats.

Unrequested Program Adjustments

The Committee provided funding for several procurement and research and development programs that were not requested by the Administration. Some of the programs that received unnecessary funding include National Guard and Reserve Equipment, and Navy trainer aircraft. Increases to these programs come at the expense of other high priority programs. The Committee reduced funding for several high priority programs including the Joint Strike Fighter, DD-21 destroyer, LPD-17 amphibious ship, T-AKE auxiliary ship, and V-22 aircraft programs. The Administration also opposes the earmarking of funds for un-reviewed science and technology

programs. In particular, the bill adds \$470 million for 26 projects and diverts funding from medical management to a large number of medical research programs unrelated to national security.

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-8-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-9-02 NOON

SIGNING STATEMENT - H.R. 3338 - DEFENSE AND EMERGENCY
SUPPLEMENTAL APPROPRIATIONS FOR RECOVERY FROM AND RESPONSE TO

Subject: TERRORIST ATTACKS ON THE UNITED STATES ACT, FY 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☐
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☒	☐	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

Please forward comments directly to the Staff Secretary no later than NOON, Wednesday, January 9, 2001 with a cc to Beth Rossman. The Signing Statement needs to be read in conjunction with the Enrolled Bill Memo. Thank you.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft re; H.R. 3338]	4	N.D.	P5;

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For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

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SERIES:

Saunders, G. Timothy (Tim) - Bill Files

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01/10/2002 [H.R. 3338] [1]

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Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 8, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3338 -- Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, FY 2002

Sponsors: Representative Lewis (R), California
Senator Inouye (D), Hawaii

Last Day for Action

While the last day for action is January 18, 2002 -- Friday, I recommend that you sign this bill before Thursday, January 10th as funding for the agencies and accounts covered by the enrolled bill is currently provided under P.L. 107-97, the eighth FY 2002 Continuing Resolution, which will expire at midnight on Thursday, January 10th.

Purpose

Provides FY 2002 appropriations for the Department of Defense and emergency supplemental appropriations, totaling \$20 billion, in fulfillment of the requirements of P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Defense	Approval
Department of Housing and Urban Development	Approval
Department of Health and Human Services	Approval
Department of Justice	Approval
Department of Transportation	Approval
Department of the Treasury	Approval
Federal Emergency Management Agency	Approval
National Security Council	Approval
Other affected agencies	Approval (assumed)

The House and the Senate adopted the conference report on H.R. 3338 on December 20th by votes of 408-6 and 94-2, respectively.

FY 2002 Defense Appropriations

H.R. 3338 provides \$317.2 billion in discretionary budget authority for FY 2002, \$1.9 billion less than your request and \$29.7 billion above the FY 2001 enacted level. This level remains within the agreed-upon aggregate funding level of \$686 billion and the agreed upon level enacted in P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001. In several areas, it is largely in line with the Administration's defense priorities. In particular, Congress agreed to support your pay initiative, which will improve the quality of life for America's military service members.

The bill provides your request of \$61.6 billion for Procurement and \$48.8 billion for Research, Development, Test and Evaluation programs, \$1.4 billion above your request. The \$48.8 billion for R&D includes \$7.8 billion for missile defense, \$0.5 billion below the request, with reductions to the Sea-based Midcourse System, Space-Based Laser, and the recently-terminated Navy Area Defense program.

As discussed in more detail below, the Congress provided additional supplemental funding to respond to the September 11th attacks and did not exceed the agreed upon level of \$20 billion provided in P.L. 107-38. You requested \$7.3 billion for the Department of Defense that is urgently needed to prosecute the war on terrorism. However, the Congress provided only \$3.5 billion of that request and imposed reprogramming restrictions.

Military Personnel

The military personnel accounts are funded at \$82.1 billion, \$250.6 million less than your requested level. The largest reductions were made for personnel underexecution (\$313.2 million) and permanent change of station moves (\$180.0 million). Congress added funds, however, for some additional National Guard and reserve support and for operations in the Balkans.

Operations and Maintenance (O&M)

Most of the reductions in the bill fell upon key O&M programs. These reductions assume savings for foreign currency fluctuation, utilities, and more efficient contract management, but they are grossly overstated and not achievable in the current fiscal year. The military departments will be forced within each O&M account to cover the legislated reductions and will likely reduce base operations, depot maintenance, and real property maintenance accounts as the Services make every effort to maintain near-term readiness. This may increase the backlog in facilities and equipment maintenance and ultimately increase repair costs.

Procurement Programs

The enrolled bill provides \$61.6 billion for Procurement, the same level as your request. The enrolled bill includes:

- \$891 million for the Army's Longbow Apache helicopter;
- \$663 million for the Army's Interim Armored Vehicle;

- \$783 million to procure nine MV-22 tilt-rotor aircraft;
- \$395 million (\$280 million more than your request) to proceed with the conversion of four Trident submarines to guided missile submarines (SSGNs);
- \$3.0 billion for procurement of 48 Navy F/A 18E/F fighter aircraft;
- \$2.8 billion for procurement of 13 F-22 fighter aircraft for the Air Force;
- \$2.8 billion for procurement of 15 C-17 airlift aircraft;
- \$3.0 billion to build three DDG-51 destroyers; and
- \$729 million to fund cost growth for Navy ships started in prior years.

Research and Development Programs

The bill provides \$48.8 billion for Research, Development, Test and Evaluation programs, \$1.4 billion above your request. The bill includes:

- \$627 million for V-22 development;
- \$1,539 million for Joint Strike Fighter development;
- \$788 million for the Army's Comanche helicopter;
- \$263 million for Marine Corps (armored) Assault Vehicles;
- \$882 million for the Air Force's F-22 Raptor fighter aircraft;
- \$445 million for the Space Based Infrared System-High missile detection satellite; and
- \$315 million for the Evolved Expendable Launch Vehicle (booster rocket) Program.

Program and Other Reductions

The enrolled bill reduces funding for several modernization programs, including a \$125 million reduction to the Navy's next-generation destroyer development program; a reduction of \$226 million for procurement of three V-22 tilt rotor aircraft; and a \$70 million reduction in development of the Advanced EHF MILSATCOM program (an Air Force communications satellite).

The bill also cut \$639 million from the request for the Defense Working Capital Funds. This funding was requested to restore the cash balances of the Defense Logistics Agency, which were drawn down as it sold fuel to the military services below cost in prior years. If actual fuel prices exceed budgeted estimates, this reduction would increase the risk this year that the Working Capital Funds will not be able to support increased operations satisfactorily.

Missile Defense

The enrolled bill provides \$7.8 billion for missile defense, \$0.5 billion below your request. The bill provides the \$3.2 billion request for Land-based Midcourse systems, and increases funds for the Airborne Laser, Arrow, and Patriot Advanced Capability-3 programs. The bill reduces funding for the Sea-based Midcourse system and Space-Based Laser programs by \$120 million each below your request. The enrolled bill also eliminates \$288 million in funding requested from the Navy Area missile defense program; this reduction is consistent with

the Defense Department's recent decision to terminate this program due to large projected cost increases

Although the bill does not include the \$385 million requested for Space Based Infra-Red System-Low (SBIRS-Low) missile warning satellites, it allows DoD to continue to develop technologies associated with SBIRS-Low under a new \$250 million Satellite Sensor Technology program. Contrary to the Administration's proposal, the bill transfers several programs from the Military Services to the Ballistic Missile Defense Organization.

Leasing of Boeing 767 and 737 Aircraft

Section 8159 of the bill authorizes the Secretary of Defense to enter into an operating lease for up to 100 general purpose Boeing 767 and four Boeing 737 aircraft. The Air Force would convert the 767 aircraft to a tanker configuration. However, the Air Force would have to return the aircraft in its original configuration to Boeing at the end of the lease period -- a maximum of 10 years. While the provision makes clear that any lease for either type of aircraft must be consistent with the criteria for an operating lease, our analysis indicates that acquiring these aircraft through operating leases may be cost prohibitive.

International Criminal Court

The bill includes a provision of foreign policy concern. Section 8173 prohibits the use of appropriated funds for cooperation with, or assistance or other support to, the International Criminal Court (ICC). While section 8173 clearly reflects that Congress agrees with the Administration that it is not in the interests of the United States to become a party to the ICC treaty, this provision must be applied consistent with your constitutional authority in the area of foreign affairs, which, among other things, will enable you to take actions to protect U.S. nationals from the purported jurisdiction of the treaty.

FY 2002 Emergency Supplemental Appropriations

P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001, provided a total of \$40 billion in emergency funding to the Emergency Response Fund. As required by P.L. 107-38, you designated the entire \$40 billion as an emergency funding requirement on September 18, 2001. To date, the Administration has transferred \$19.7 billion of the first \$20 billion, which was made available to agencies, without requiring any further congressional action, to address the immediate needs and consequences of the attacks.

Overall, the supplemental portion of this enrolled bill provides \$20.0 billion in emergency discretionary budget authority, the total requested by the Administration. Of this amount, the bill provides: \$3.5 billion for the Department of Defense; \$8.2 billion for New York, Virginia, Maryland, Pennsylvania, and the District of Columbia; and \$8.4 billion for homeland security activities.

reimbursement to hospitals impacted by the terrorist attacks; and, \$200.0 million for the District of Columbia, \$175.0 million above the request. The bill provides:

- \$200 million for the District of Columbia, including funds for first responder equipment, training and a land-line and wireless communication system and funds for improvements in emergency traffic management, increased facility security at District buildings and public schools, and increased security measures within the Washington Metropolitan Transit Area Authority subway and bus system;
- \$4.4 billion for FEMA's emergency response, debris removal and public infrastructure repair efforts and \$210 million in unrequested funding for FEMA's firefighter grant program to provide emergency planning assistance;
- \$175 million for the New York State Compensation Review Board for the processing and payment of claims related to the attacks;
- \$150 million for Small Business Administration disaster and business assistance; and,
- \$32.5 million for training and employment services for New York City area workers displaced as a result of the September 11th attacks.

Homeland Security

The bill provides \$8.4 billion for homeland security activities. Funds for border security include: \$361.8 million for the U.S. Customs Service for increased border and seaport inspections and other counter-terror activities, \$285.1 million more than your request; \$209.0 million for the Coast Guard, \$6.0 million above the request; \$549.4 million for the Immigration and Naturalization Service, for an increased border presence at the northern and southwestern borders and counter-terrorism initiatives, \$150.0 million above the request; and \$93.0 million for grants to U.S. seaports for security assessments and enhancements

The bill provides additional funding to prepare for, and prevent, any future terrorist attacks. The Federal Bureau of Investigation will receive \$745.0 million, \$206.5 million over the request, to apprehend terrorists, preempt terrorist activity, and protect our Nation's infrastructure – including its information infrastructure – from terrorist attack. The bill provides \$160.7 million, \$43.0 million above the request, for the Department of Energy to enhance the physical and cyber-security of key facilities and nuclear materials and to continue the development of systems to detect biological attacks. EPA will receive \$174.6 million, \$99.6 million over the request, which includes funds to work States to assess the vulnerability of large drinking water systems. To support State and local first responders, the bill provides \$651.0 million to the Department of Justice, of which \$251 million is earmarked for New York, New Jersey, Virginia, Maryland, Pennsylvania, and Utah, and an additional \$189.0 million is earmarked for other projects. The bill also includes \$500.0 million for emergency expenses for the U.S. Postal Service for repair of facilities destroyed in the terrorist attacks and to mitigate current and future biohazardous threats.

Over \$2.6 billion is provided for public health and bioterrorism activities, \$1 billion above your request. The bill includes \$593 million for the National Pharmaceutical Stockpile and \$512 million to purchase smallpox vaccine. The bill provides \$1 billion for State and local preparedness, including State and local lab capacity, communication systems, preparedness and

reimbursement to hospitals impacted by the terrorist attacks; and, \$200.0 million for the District of Columbia, \$175.0 million above the request. The bill provides:

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Homeland Security

The bill provides \$8.3 billion for homeland security activities. Funds for border security include: \$399.7 million for the U.S. Customs Service for increased border and seaport inspections and other counter-terror activities, \$285.5 million more than your request; \$209.0 million for the Coast Guard, \$6.0 million above the request; \$549.4 million for the Immigration and Naturalization Service, for an increased border presence at the northern and southwestern borders and counter-terrorism initiatives, \$150.0 million above the request; and \$93.0 million for grants to U.S. seaports for security assessments and enhancements

The bill provides additional funding to prepare for, and prevent, any future terrorist attacks. The Federal Bureau of Investigation will receive \$745.0 million, \$206.5 million over the request, to apprehend terrorists, preempt terrorist activity, and protect our Nation's infrastructure - including its information infrastructure - from terrorist attack. The bill provides \$160.7 million, \$43.0 million above the request, for the Department of Energy to enhance the physical and cyber-security of key facilities and nuclear materials and to continue the development of systems to detect biological attacks. EPA will receive \$174.6 million, \$99.6 million over the request, which includes funds to work States to assess the vulnerability of large drinking water systems. To support State and local first responders, the bill provides \$651.0 million to the Department of Justice, of which \$251 million is earmarked for New York, New Jersey, Virginia, Maryland, Pennsylvania, and Utah, and an additional \$189.0 million is earmarked for other projects. The bill also includes \$500.0 million for emergency expenses for the U.S. Postal Service for repair of facilities destroyed in the terrorist attacks and to mitigate current and future biohazardous threats.

Over \$2.6 billion is provided for public health and bioterrorism activities, \$1 billion above your request. The bill includes \$593 million for the National Pharmaceutical Stockpile and \$512 million to purchase smallpox vaccine. The bill provides \$1 billion for State and local preparedness, including State and local lab capacity, communication systems, preparedness and

planning, and \$135 million to improve hospital preparedness. Additional resources above your request will enhance biomedical research, including next generation vaccine research. The bill provides \$100 million for upgrading laboratory capacity at the Centers for Disease Control and Prevention (CDC) and \$84 million for security upgrades at CDC, the National Institutes of Health, and the Food and Drug Administration (FDA). The bill also provides \$138 million for FDA to improve food safety inspection and expedite drug review and approval. The bill also addresses your request for enhancing the capabilities of Federal and local public health response teams.

The bill provides \$108.5 million, as requested, to improve airport security through the purchase and installation of explosives detection systems in airports. The bill also includes \$175 million in unrequested funding to reimburse airports for the cost of security upgrades. The bill provides \$100 million - -\$200 million below your request - for your commitment to improve airplane cockpit security, and another \$65 million in unrequested funding is provided to help hire additional Federal air marshals.

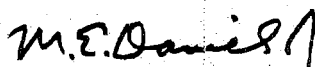
The bill increases security funding for all three branches of the Federal Government: \$92.5 million for security requirements of the Federal Judiciary and the Supreme Court; \$256 million for Legislative Branch security and an additional 195 employees for the U.S. Capitol Police; \$50.4 million for the Executive Office of the President, equal to your request; and \$126 million for General Services Administration for increased security at Federal buildings.

The bill also includes language on the Homestake Mine in South Dakota. The language would transfer unprecedented and virtually unlimited liability for environmental clean-up and tort claims to the American taxpayer, even where the liability is unrelated to actions of the U.S. government.

Recommendation

On balance, while H.R. 3338 reduces certain DoD funding, it provides adequate overall funding for your defense programs. The bill also abides by the agreed upon aggregate funding level for Fiscal Year 2002 of \$686 billion and continues recovery from the terrorist attacks by appropriating the \$20.0 billion provided in P.L. 107-38. I join the heads of the affected Departments and agencies in recommending approval of the enrolled bill. A signing statement is attached for your consideration.

Sincerely,



Mitchell E. Daniels, Jr.
Director

Attachment

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-26-01ACTION / CONCURRENCE / COMMENT DUE BY: 11-27-01 12:00 PMSubject: DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FY 2002 SAP

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☐
DANIELS	☒	☐	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO DANIELLE SIMONETTA, X54790, NO LATER THAN 12:00 P.M. TOMORROW, TUESDAY, NOVEMBER 27, 2001, WITH A COPY TO THE STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft statement of administration policy re: H.R. 3338]	7	November 2001	P5;

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

01/10/2002 [H.R. 3338] [1]

FRC ID:

782

FOIA IDs and Segments:

OA Num.:

733

NARA Num.:

1459

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-8-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-9-02 10:00 AMENROLLED BILL H.R. 3338 - DEFENSE AND EMERGENCY SUPPLEMENTAL
APPROPRIATIONS FOR RECOVERY FROM AND RESPONSE TO TERRORISTSubject: ATTACKS ON THE UNITED STATES ACT, FY 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☐
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☒	☐	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

Please forward comments directly to Beth Rossman, x54790 (fax 53729), no later than 10:00 a.m., Wednesday, January 9, 2002, with a cc to the Staff Secretary. Thank you.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

January 8, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3338 -- Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, FY 2002

Sponsors: Representative Lewis (R), California
Senator Inouye (D), Hawaii

Last Day for Action

While the last day for action is January 18, 2002 -- Friday, I recommend that you sign this bill before Thursday, January 10th as funding for the agencies and accounts covered by the enrolled bill is currently provided under P.L. 107-97, the eighth FY 2002 Continuing Resolution, which will expire at midnight on Thursday, January 10th.

Purpose

Provides FY 2002 appropriations for the Department of Defense and emergency supplemental appropriations, totaling \$20 billion, in fulfillment of the requirements of P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Defense	Approval
Department of Housing and Urban Development	Approval
Department of Health and Human Services	Approval
Department of Justice	Approval
Department of Transportation	Approval
Department of the Treasury	Approval
Federal Emergency Management Agency	Approval
National Security Council	Approval
Other affected agencies	Approval (assumed)

The House and the Senate adopted the conference report on H.R. 3338 on December 20th by votes of 408-6 and 94-2, respectively.

FY 2002 Defense Appropriations

H.R. 3338 provides \$317.2 billion in discretionary budget authority for FY 2002, \$1.9 billion less than your request and \$29.7 billion above the FY 2001 enacted level. This level remains within the agreed-upon aggregate funding level of \$686 billion and the agreed upon level enacted in P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001. In several areas, it is largely in line with the Administration's defense priorities. In particular, Congress agreed to support your pay initiative, which will improve the quality of life for America's military service members.

The bill provides your request of \$61.6 billion for Procurement and \$48.8 billion for Research, Development, Test and Evaluation programs, \$1.4 billion above your request. The \$48.8 billion for R&D includes \$7.8 billion for missile defense, \$0.5 billion below the request, with reductions to the Sea-based Midcourse System, Space-Based Laser, and the recently-terminated Navy Area Defense program.

As discussed in more detail below, the Congress provided additional supplemental funding to respond to the September 11th attacks and did not exceed the agreed upon level of \$20 billion provided in P.L. 107-38. You requested \$7.3 billion for the Department of Defense that is urgently needed to prosecute the war on terrorism. However, the Congress provided only \$3.5 billion of that request and imposed reprogramming restrictions.

Military Personnel

The military personnel accounts are funded at \$82.1 billion, \$250.6 million less than your requested level. The largest reductions were made for personnel underexecution (\$313.2 million) and permanent change of station moves (\$180.0 million). Congress added funds, however, for some additional National Guard and reserve support and for operations in the Balkans.

Operations and Maintenance (O&M)

Most of the reductions in the bill fell upon key O&M programs. These reductions assume savings for foreign currency fluctuation, utilities, and more efficient contract management, but they are grossly overstated and not achievable in the current fiscal year. The military departments will be forced within each O&M account to cover the legislated reductions and will likely reduce base operations, depot maintenance, and real property maintenance accounts as the Services make every effort to maintain near-term readiness. This may increase the backlog in facilities and equipment maintenance and ultimately increase repair costs.

Procurement Programs

The enrolled bill provides \$61.6 billion for Procurement, the same level as your request. The enrolled bill includes:

- \$891 million for the Army's Longbow Apache helicopter;
- \$663 million for the Army's Interim Armored Vehicle;

- \$783 million to procure nine MV-22 tilt-rotor aircraft;
- \$395 million (\$280 million more than your request) to proceed with the conversion of four Trident submarines to guided missile submarines (SSGNs);
- \$3.0 billion for procurement of 48 Navy F/A 18E/F fighter aircraft;
- \$2.8 billion for procurement of 13 F-22 fighter aircraft for the Air Force;
- \$2.8 billion for procurement of 15 C-17 airlift aircraft;
- \$3.0 billion to build three DDG-51 destroyers; and
- \$729 million to fund cost growth for Navy ships started in prior years.

Research and Development Programs

The bill provides \$48.8 billion for Research, Development, Test and Evaluation programs, \$1.4 billion above your request. The bill includes:

- \$627 million for V-22 development;
- \$1,539 million for Joint Strike Fighter development;
- \$788 million for the Army's Comanche helicopter;
- \$263 million for Marine Corps (armored) Assault Vehicles;
- \$882 million for the Air Force's F-22 Raptor fighter aircraft;
- \$445 million for the Space Based Infrared System-High missile detection satellite; and
- \$315 million for the Evolved Expendable Launch Vehicle (booster rocket) Program.

Program and Other Reductions

The enrolled bill reduces funding for several modernization programs, including a \$125 million reduction to the Navy's next-generation destroyer development program; a reduction of \$226 million for procurement of three V-22 tilt rotor aircraft; and a \$70 million reduction in development of the Advanced EHF MILSATCOM program (an Air Force communications satellite).

The bill also cut \$639 million from the request for the Defense Working Capital Funds. This funding was requested to restore the cash balances of the Defense Logistics Agency, which were drawn down as it sold fuel to the military services below cost in prior years. If actual fuel prices exceed budgeted estimates, this reduction would increase the risk this year that the Working Capital Funds will not be able to support increased operations satisfactorily.

Missile Defense

The enrolled bill provides \$7.8 billion for missile defense, \$0.5 billion below your request. The bill provides the \$3.2 billion request for Land-based Midcourse systems, and increases funds for the Airborne Laser, Arrow, and Patriot Advanced Capability-3 programs. The bill reduces funding for the Sea-based Midcourse system and Space-Based Laser programs by \$120 million each below your request. The enrolled bill also eliminates \$288 million in funding requested from the Navy Area missile defense program; this reduction is consistent with

the Defense Department's recent decision to terminate this program due to large projected cost increases

Although the bill does not include the \$385 million requested for Space Based Infra-Red System-Low (SBIRS-Low) missile warning satellites, it allows DoD to continue to develop technologies associated with SBIRS-Low under a new \$250 million Satellite Sensor Technology program. Contrary to the Administration's proposal, the bill transfers several programs from the Military Services to the Ballistic Missile Defense Organization.

Leasing of Boeing 767 and 737 Aircraft

Section 8159 of the bill authorizes the Secretary of Defense to enter into an operating lease for up to 100 general purpose Boeing 767 and four Boeing 737 aircraft. The Air Force would convert the 767 aircraft to a tanker configuration. However, the Air Force would have to return the aircraft in its original configuration to Boeing at the end of the lease period -- a maximum of 10 years. While the provision makes clear that any lease for either type of aircraft must be consistent with the criteria for an operating lease, our analysis indicates that acquiring these aircraft through operating leases may be cost prohibitive.

International Criminal Court

The bill includes a provision of foreign policy concern. Section 8173 prohibits the use of appropriated funds for cooperation with, or assistance or other support to, the International Criminal Court (ICC). While section 8173 clearly reflects that Congress agrees with the Administration that it is not in the interests of the United States to become a party to the ICC treaty, this provision must be applied consistent with your constitutional authority in the area of foreign affairs, which, among other things, will enable you to take actions to protect U.S. nationals from the purported jurisdiction of the treaty.

FY 2002 Emergency Supplemental Appropriations

P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from the Tragedy that occurred on September 11, 2001, provided a total of \$40 billion in emergency funding to the Emergency Response Fund. As required by P.L. 107-38, you designated the entire \$40 billion as an emergency funding requirement on September 18, 2001. To date, the Administration has transferred \$19.7 billion of the first \$20 billion, which was made available to agencies, without requiring any further congressional action, to address the immediate needs and consequences of the attacks.

Overall, the supplemental portion of this enrolled bill provides \$20.0 billion in emergency discretionary budget authority, the total requested by the Administration. Of this amount, the bill provides: \$3.5 billion for the Department of Defense; \$8.2 billion for New York, Virginia, Maryland, Pennsylvania, and the District of Columbia; and \$8.3 billion for homeland security activities.

Department of Defense (DOD)

The emergency supplemental provides \$3.5 billion for Defense Department operations, \$3.9 billion below your request. Highlights of this funding include: \$850 million for increased situational (military intelligence) awareness (approximately \$885 million below your request); \$1.5 billion for increased worldwide posture (\$1.4 billion below your request); \$372 million for offensive counter-terrorism (\$173 million below your request); \$39 million for initial crisis response (\$67 million below your request); and \$640 million for Pentagon repair/upgrade costs (\$285 million below your request). Funding for enhanced force protection requirements (\$881 million request) and for improved command and control requirements (\$219 million request) was not provided.

Of the \$640 million in funds provided for Pentagon repairs and upgrades, the construction costs of \$475 million to cover damage of September 11th were fully funded. However, the bill only provided \$33 million of the \$450 million requested for relocation expenses, replacement office furnishings, and other recovery efforts. The other \$132 million appropriated in the bill for repairs/upgrades category is for unrequested, miscellaneous items added by members of Congress. In addition to the appropriated amounts, this portion of the bill includes \$300 million in transfer authority pursuant to P.L. 107-38 to construct military command centers in the Pentagon and to accelerate the ongoing Pentagon renovation effort.

The bill also contains transfer provisions that address National Guard reimbursement and operations and maintenance funding. The bill includes a general provision, section 1403, that allows funds to be transferred from agencies requiring National Guard services to DOD for the cost of those services. This authority will remain available until April 30th.

The bill also includes a provision, section 306, that allows the Secretary to transfer up to 1.5 percent of FY 2002 unobligated balances from any defense procurement or research and development account to fund additional needs for the war on terrorism and homeland security, once funds available to DoD pursuant to P.L. 107-38 in the Defense Emergency Response Fund are exhausted. This transfer authority is in addition to the Secretary's existing transfer authority.

New York, Virginia, Pennsylvania, and the District of Columbia

The enrolled bill provides \$8.2 billion for New York, Virginia, Maryland, the District of Columbia, and Pennsylvania to help those areas recover from the terrorist attacks. That amount includes: \$2.0 billion for the Community Development Block Grant program for economic recovery assistance for affected areas in New York City -- in addition to the \$700 million the Administration has already provided; \$4.4 billion for disaster relief through the Federal Emergency Management Agency (FEMA), \$543.0 million below the request; \$1.3 billion in additional transportation assistance and security enhancements, including funds for Amtrak, subways, seaport security and ferries, totaling \$560 million above the request; \$140.0 million in

reimbursement to hospitals impacted by the terrorist attacks; and, \$200.0 million for the District of Columbia, \$175.0 million above the request. The bill provides:

- \$200 million for the District of Columbia, including funds for first responder equipment, training and a land-line and wireless communication system and funds for improvements in emergency traffic management, increased facility security at District buildings and public schools, and increased security measures within the Washington Metropolitan Transit Area Authority subway and bus system;
- \$4.4 billion for FEMA's emergency response, debris removal and public infrastructure repair efforts and \$210 million in unrequested funding for FEMA's firefighter grant program to provide emergency planning assistance;
- \$175 million for the New York State Compensation Review Board for the processing and payment of claims related to the attacks;
- \$150 million for Small Business Administration disaster and business assistance; and,
- \$32.5 million for training and employment services for New York City area workers displaced as a result of the September 11th attacks.

Homeland Security

The bill provides \$8.3 billion for homeland security activities. Funds for border security include: \$399.7 million for the U.S. Customs Service for increased border and seaport inspections and other counter-terror activities, \$285.5 million more than your request; \$209.0 million for the Coast Guard, \$6.0 million above the request; \$549.4 million for the Immigration and Naturalization Service, for an increased border presence at the northern and southwestern borders and counter-terrorism initiatives, \$150.0 million above the request; and \$93.0 million for grants to U.S. seaports for security assessments and enhancements

The bill provides additional funding to prepare for, and prevent, any future terrorist attacks. The Federal Bureau of Investigation will receive \$745.0 million, \$206.5 million over the request, to apprehend terrorists, preempt terrorist activity, and protect our Nation's infrastructure - including its information infrastructure - from terrorist attack. The bill provides \$160.7 million, \$43.0 million above the request, for the Department of Energy to enhance the physical and cyber-security of key facilities and nuclear materials and to continue the development of systems to detect biological attacks. EPA will receive \$174.6 million, \$99.6 million over the request, which includes funds to work States to assess the vulnerability of large drinking water systems. To support State and local first responders, the bill provides \$651.0 million to the Department of Justice, of which \$251 million is earmarked for New York, New Jersey, Virginia, Maryland, Pennsylvania, and Utah, and an additional \$189.0 million is earmarked for other projects. The bill also includes \$500.0 million for emergency expenses for the U.S. Postal Service for repair of facilities destroyed in the terrorist attacks and to mitigate current and future biohazardous threats.

Over \$2.6 billion is provided for public health and bioterrorism activities, \$1 billion above your request. The bill includes \$593 million for the National Pharmaceutical Stockpile and \$512 million to purchase smallpox vaccine. The bill provides \$1 billion for State and local preparedness, including State and local lab capacity, communication systems, preparedness and

planning, and \$135 million to improve hospital preparedness. Additional resources above your request will enhance biomedical research, including next generation vaccine research. The bill provides \$100 million for upgrading laboratory capacity at the Centers for Disease Control and Prevention (CDC) and \$84 million for security upgrades at CDC, the National Institutes of Health, and the Food and Drug Administration (FDA). The bill also provides \$138 million for FDA to improve food safety inspection and expedite drug review and approval. The bill also addresses your request for enhancing the capabilities of Federal and local public health response teams.

The bill provides \$108.5 million, as requested, to improve airport security through the purchase and installation of explosives detection systems in airports. The bill also includes \$175 million in unrequested funding to reimburse airports for the cost of security upgrades. The bill provides \$100 million - \$200 million below your request - for your commitment to improve airplane cockpit security, and another \$65 million in unrequested funding is provided to help hire additional Federal air marshals.

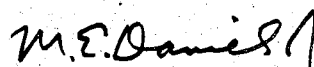
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The bill also includes language on the Homestake Mine in South Dakota. The language would transfer unprecedented and virtually unlimited liability for environmental clean-up and tort claims to the American taxpayer, even where the liability is unrelated to actions of the U.S. government.

Recommendation

On balance, while H.R. 3338 reduces certain DoD funding, it provides adequate overall funding for your defense programs. The bill also abides by the agreed upon aggregate funding level for Fiscal Year 2002 of \$686 billion and continues recovery from the terrorist attacks by appropriating the \$20.0 billion provided in P.L. 107-38. I join the heads of the affected Departments and agencies in recommending approval of the enrolled bill. A signing statement is attached for your consideration.

Sincerely,



Mitchell E. Daniels, Jr.
Director

Attachment

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 3338, the "Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002," which provides \$317.2 billion for national security programs administered by the Department of Defense. It also provides \$20 billion in emergency supplemental funding for the consequences of the September 11th attacks, including \$3.5 billion for the Department of Defense that is urgently needed to prosecute the war on terrorism. The Act provides appropriations for the Nation's defense and supplemental appropriations for many agencies for recovery from and response to terrorist attacks on the United States. In particular, the Act provides the resources needed to continue the war against global terrorism, pursue an effective missile defense, properly support members of the Armed Forces and their families, and begin to transform our Armed Forces to meet the military requirements of the 21st century.

I appreciate the bipartisan effort that has gone into producing this Act. It abides by the agreed-upon aggregate funding level for Fiscal Year 2002 of \$686 billion and the agreed-upon level enacted in Public Law 107-38, the "2001 Emergency Supplemental Appropriations Act for Recovery from and Response to the Terrorists Attacks on the United States" that occurred on September 11, 2001.

Public Law 107-38 -- legislation crafted and enacted with strong bipartisan cooperation -- provided a total of \$40 billion in emergency funding to the Emergency Response Fund. The \$40 billion in emergency expenses was provided to assist victims of the attacks and to deal with other consequences of the attacks, including the costs of: (1) providing Federal, State, and local preparedness for mitigating and responding to the attacks; (2) providing support to counter, investigate, or prosecute domestic or international terrorism; (3) providing

increased transportation security; (4) repairing public facilities and transportation systems damaged by the attacks; and (5) supporting national security. As required by Public Law 107-38, I designated the entire \$40 billion as an emergency funding requirement. To date, my Administration has transferred \$19.7 billion of the first \$20 billion, which was made available to agencies, without requiring any further congressional action, to address the immediate needs and consequences of the attacks.

The second \$20 billion provided in this Act will continue those efforts. The funds in this Act include: \$3.5 billion for Department of Defense operations; \$8.2 billion for New York, Virginia, Maryland, the District of Columbia, and Pennsylvania, to help those areas recover from the terrorist attacks; and \$8.4 billion for homeland security activities. I am proud that we worked together with such bipartisan spirit in the weeks following the despicable attacks on our Nation. My Administration will work together with the Congress to address additional needs as they become known during the second session of the 107th Congress.

The Act funds the vast majority of my request for critical pay raises and other quality of life programs. It supports my commitment to improving the quality of life of our military personnel and their families by including pay raises of 5 to 15 percent. The Act also funds many of my modernization priorities, including conversion of Trident submarines to submarines that can carry cruise missiles. However, because it provides approximately \$2 billion less than requested, the Act does not adequately fund all my critical priorities, specifically the readiness of our forces. The \$2 billion reduction is largely achieved by cuts to operation and maintenance programs. While a small portion of that reduction is offset in dollar terms by congressional increases, those increases are for programs of a much lower priority. As a result, these cuts will place our military forces in the all too familiar predicament of having

to choose either to sacrifice near-term readiness or to forego critical repair of family housing, defer important depot maintenance of our weapon systems, and reduce base operations.

Section 8007 of the Act prohibits use of funds to initiate a special access program until 30 calendar days of congressional session have elapsed after the executive branch has notified the congressional defense committees of initiation of the program. The U.S. Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does not depend upon a legislative grant of authority. Although 30-day advance notice can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must promptly establish special access controls on classified national security information under his constitutional grants of the executive power and authority as Commander in Chief of the Armed Forces. The executive branch shall construe section 8007 in a manner consistent with the constitutional authority of the President.

Section 8072 of the Act provides that, notwithstanding any other provision of law, no funds available to the Department of Defense for fiscal year 2002 may be used to transfer defense articles or services, other than intelligence services, to another nation or international organization for international peacekeeping, peace-enforcement, or humanitarian assistance operations, until 15 days after the executive branch notifies six committees of Congress of the planned transfer. The provision does not affect transfers using funds available to the Department of Defense if the recipient is other than a nation or an international organization or if the transfer is of intelligence services, such as provision of or accommodation procurements for imagery intelligence, geospatial information, or cryptological support. The provision also does not affect transfers of defense articles or services using funds contained

in the Act that are available to the Central Intelligence Agency rather than the Department of Defense. To the extent that protection of the U.S. Armed Forces deployed for international peacekeeping, peace-enforcement, or humanitarian assistance operations might require action of a kind covered by section 8072 sooner than 15 days after notification, section 8072 shall be construed in a manner consistent with my constitutional duty as Commander in Chief of the Armed Forces.

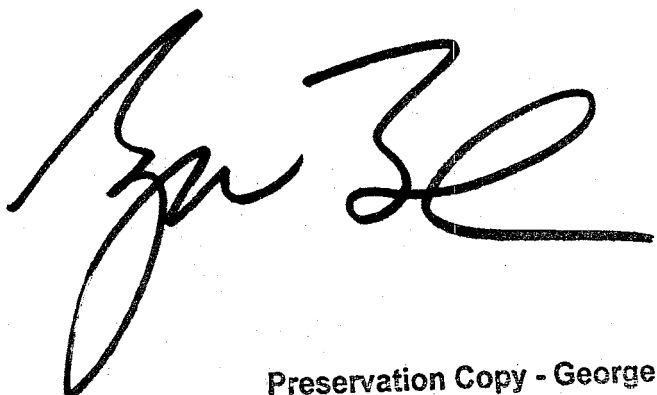
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A large, stylized handwritten signature in black ink, likely belonging to George W. Bush, is positioned in the lower right quadrant of the page. The signature is fluid and cursive, with a prominent 'G' and 'B'.

THE WHITE HOUSE,

January 10, 2002.

Preservation Copy - George W. Bush Handwritten

STATEMENT BY THE PRESIDENT

1/10/07
THE PRESIDENT HAS SEEN

Today I have signed into law H.R. 3338, the "Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002," which provides \$317.2 billion for national security programs administered by the Department of Defense. It also provides \$20 billion in emergency supplemental funding for the consequences of the September 11th attacks, including \$3.5 billion for the Department of Defense that is urgently needed to prosecute the war on terrorism. The Act provides appropriations for the Nation's defense and supplemental appropriations for many agencies for recovery from and response to terrorist attacks on the United States. In particular, the Act provides the resources needed to continue the war against global terrorism, pursue an effective missile defense, properly support members of the Armed Forces and their families, and begin to transform our Armed Forces to meet the military requirements of the 21st century.

I appreciate the bipartisan effort that has gone into producing this Act. It abides by the agreed-upon aggregate funding level for Fiscal Year 2002 of \$686 billion and the agreed-upon level enacted in Public Law 107-38, the "2001 Emergency Supplemental Appropriations Act for Recovery from and Response to the Terrorists Attacks on the United States" that occurred on September 11, 2001.

Public Law 107-38 -- legislation crafted and enacted with strong bipartisan cooperation -- provided a total of \$40 billion in emergency funding to the Emergency Response Fund. The \$40 billion in emergency expenses was provided to assist victims of the attacks and to deal with other consequences of the attacks, including the costs of: (1) providing Federal, State, and local preparedness for mitigating and responding to the attacks; (2) providing support to counter, investigate, or prosecute domestic or international terrorism; (3) providing

increased transportation security; (4) repairing public facilities and transportation systems damaged by the attacks; and (5) supporting national security. As required by Public Law 107-38, I designated the entire \$40 billion as an emergency funding requirement. To date, my Administration has transferred \$19.7 billion of the first \$20 billion, which was made available to agencies, without requiring any further congressional action, to address the immediate needs and consequences of the attacks.

The second \$20 billion provided in this Act will continue those efforts. The funds in this Act include: \$3.5 billion for Department of Defense operations; \$8.2 billion for New York, Virginia, Maryland, the District of Columbia, and Pennsylvania, to help those areas recover from the terrorist attacks; and \$8.4 billion for homeland security activities. I am proud that we worked together with such bipartisan spirit in the weeks following the despicable attacks on our Nation. My Administration will work together with the Congress to address additional needs as they become known during the second session of the 107th Congress.

The Act funds the vast majority of my request for critical pay raises and other quality of life programs. It supports my commitment to improving the quality of life of our military personnel and their families by including pay raises of 5 to 15 percent. The Act also funds many of my modernization priorities, including conversion of Trident submarines to submarines that can carry cruise missiles. However, because it provides approximately \$2 billion less than requested, the Act does not adequately fund all my critical priorities, specifically the readiness of our forces. The \$2 billion reduction is largely achieved by cuts to operation and maintenance programs. While a small portion of that reduction is offset in dollar terms by congressional increases, those increases are for programs of a much lower priority. As a result, these cuts will place our military forces in the all too familiar predicament of having

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Section 8007 of the Act prohibits use of funds to initiate a special access program until 30 calendar days of congressional session have elapsed after the executive branch has notified the congressional defense committees of initiation of the program. The U.S. Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does not depend upon a legislative grant of authority. Although 30-day advance notice can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must promptly establish special access controls on classified national security information under his constitutional grants of the executive power and authority as Commander in Chief of the Armed Forces. The executive branch shall construe section 8007 in a manner consistent with the constitutional authority of the President.

Section 8072 of the Act provides that, notwithstanding any other provision of law, no funds available to the Department of Defense for fiscal year 2002 may be used to transfer defense articles or services, other than intelligence services, to another nation or international organization for international peacekeeping, peace-enforcement, or humanitarian assistance operations, until 15 days after the executive branch notifies six committees of Congress of the planned transfer. The provision does not affect transfers using funds available to the Department of Defense if the recipient is other than a nation or an international organization or if the transfer is of intelligence services, such as provision of or accommodation procurements for imagery intelligence, geospatial information, or cryptological support. The provision also does not affect transfers of defense articles or services using funds contained

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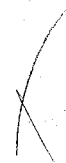
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Section 208 of Division B makes a technical correction to subsection 626(c) of Public Law 107-77 (the FY 2002 Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act), but does nothing to alter the effect of that provision or any other provision of law. Since the enactment of subsection 626(c) and consistent with it, the executive branch has encouraged the courts to act, and will continue to encourage the courts to act, in a manner consistent with the obligations of the United States under the Algiers Accords that achieved the release of U.S. hostages in 1981.

THE WHITE HOUSE,

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 3338, the "Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002," which provides \$317.2 billion for national security programs administered by the Department of Defense. It also provides \$20 billion in emergency supplemental funding for the consequences of the September 11th attacks, including \$3.5 billion for the Department of Defense that is urgently needed to prosecute the war on terrorism. The Act provides appropriations for the Nation's defense and supplemental appropriations for many agencies for recovery from and response to terrorist attacks on the United States. In particular, the Act provides the resources needed to continue the war against global terrorism, pursue an effective missile defense, properly support members of the Armed Forces and their families, and begin to transform our Armed Forces to meet the military requirements of the 21st century.

I appreciate the bipartisan effort that has gone into producing this Act. It abides by the agreed-upon aggregate funding level for Fiscal Year 2002 of \$686 billion and the agreed-upon level enacted in Public Law 107-38, the "2001 Emergency Supplemental Appropriations Act for Recovery from and Response to the Terrorists Attacks on the United States" that occurred on September 11, 2001.

Public Law 107-38 -- legislation crafted and enacted with strong bipartisan cooperation -- provided a total of \$40 billion in emergency funding to the Emergency Response Fund. The \$40 billion in emergency expenses was provided to assist victims of the attacks and to deal with other consequences of the attacks, including the costs of: (1) providing Federal, State, and local preparedness for mitigating and responding to the attacks; (2) providing support to counter, investigate, or prosecute domestic or international terrorism; (3) providing

increased transportation security; (4) repairing public facilities and transportation systems damaged by the attacks; and (5) supporting national security. As required by Public Law 107-38, I designated the entire \$40 billion as an emergency funding requirement. To date, my Administration has transferred \$19.7 billion of the first \$20 billion, which was made available to agencies, without requiring any further congressional action, to address the immediate needs and consequences of the attacks.

The second \$20 billion provided in this Act will continue those efforts. The funds in this Act include: \$3.5 billion for Department of Defense operations; \$8.2 billion for New York, Virginia, Maryland, the District of Columbia, and Pennsylvania, to help those areas recover from the terrorist attacks; and \$8.4 billion for homeland security activities. I am proud that we worked together with such bipartisan spirit in the weeks following the despicable attacks on our Nation. My Administration will work together with the Congress to address additional needs as they become known during the second session of the 107th Congress.

The Act funds the vast majority of my request for critical pay raises and other quality of life programs. It supports my commitment to improving the quality of life of our military personnel and their families by including pay raises of 5 to 15 percent. The Act also funds many of my modernization priorities, including conversion of Trident submarines to submarines that can carry cruise missiles. However, because it provides approximately \$2 billion less than requested, the Act does not adequately fund all my critical priorities, specifically the readiness of our forces. The \$2 billion reduction is largely achieved by cuts to operation and maintenance programs. While a small portion of that reduction is offset in dollar terms by congressional increases, those increases are for programs of a much lower priority. As a result, these cuts will place our military forces in the all too familiar predicament of having

to choose either to sacrifice near-term readiness or to forego critical repair of family housing, defer important depot maintenance of our weapon systems, and reduce base operations.

Section 8007 of the Act prohibits use of funds to initiate a special access program until 30 calendar days of congressional session have elapsed after the executive branch has notified the congressional defense committees of initiation of the program. The U.S. Supreme Court has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does not depend upon a legislative grant of authority. Although 30-day advance notice can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must promptly establish special access controls on classified national security information under his constitutional grants of the executive power and authority as Commander in Chief of the Armed Forces. The executive branch shall construe section 8007 in a manner consistent with the constitutional authority of the President.

Section 8072 of the Act provides that, notwithstanding any other provision of law, no funds available to the Department of Defense for fiscal year 2002 may be used to transfer defense articles or services, other than intelligence services, to another nation or international organization for international peacekeeping, peace-enforcement, or humanitarian assistance operations, until 15 days after the executive branch notifies six committees of Congress of the planned transfer. The provision does not affect transfers using funds available to the Department of Defense if the recipient is other than a nation or an international organization or if the transfer is of intelligence services, such as provision of or accommodation procurements for imagery intelligence, geospatial information, or cryptological support. The provision also does not affect transfers of defense articles or services using funds contained

in the Act that are available to the Central Intelligence Agency rather than the Department of Defense. To the extent that protection of the U.S. Armed Forces deployed for international peacekeeping, peace-enforcement, or humanitarian assistance operations might require action of a kind covered by section 8072 sooner than 15 days after notification, section 8072 shall be construed in a manner consistent with my constitutional duty as Commander in Chief of the Armed Forces.

Provisos in section 8098 of the Act purport to limit during fiscal year 2002 the number of Department of Defense military and civilian personnel assigned to legislative affairs or legislative liaison functions and to mandate the percentage distribution of such personnel among various offices of the Department. While limitation of the number of Department of Defense personnel assigned to legislative affairs and legislative liaison functions is a laudable goal, the executive branch shall construe section 8098 in a manner consistent with the President's constitutional authority to supervise the executive branch and as Commander in Chief of the Armed Forces. In particular, section 8098 cannot constitutionally restrict the authority of the President to control the activities of members of the armed forces, including whether and how many members of the Armed Forces assigned to the office of the Chairman of the Joint Chiefs of Staff, the combatant commands, or any other element of the Department of Defense shall perform legislative affairs or legislative liaison functions.

Section 8173 prohibits the use of appropriated funds for assistance or other support to the International Criminal Court (ICC). While section 8173 clearly reflects that the Congress agrees with my Administration that it is not in the interests of the United States to become a party to the ICC treaty, I must note that this provision must be applied consistent with my constitutional authority in the area of foreign affairs,

which, among other things, will enable me to take actions to protect U.S. nationals from the purported jurisdiction of the treaty.

Sections 911 and 912 in Division B of the Act provide for assistance by executive departments and agencies, including the Armed Forces, to the U.S. Capitol Police in the performance of its duties. Safeguarding the Congress and its ability to carry out its constitutional role is vital to the continuity of our constitutional Government, and the executive branch will assist as needed and appropriate. In carrying out these sections, it is important to ensure proper respect for the separate constitutional roles and authorities of the executive and legislative branches. With the aim of ensuring that respect within the executive branch, the Attorney General shall serve as the single point of contact within the executive branch for requests from the legislative branch, including the U.S. Capitol Police, for assistance under sections 911 and 912, and the District of Columbia National Guard and Federal law enforcement authorities shall enter into an agreement under section 912 only with the prior approval of the Attorney General.

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