

George W. Bush Presidential Library

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Folder Title: 12/28/2001 [S. 1438] [1]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
002	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
003	Draft	[Statement by the President] - From: William J. Haynes	2	12/21/2001	P5;
004	Routing Memo	[Statement by the President] - To: Harriet E. Miers - From: Andy Card	1	12/22/2001	P5;
005	Routing Memo	[Statement by the President] - To: Harriet E. Miers - From: Alberto Gonzales	1	12/22/2001	P5;
006	Letter	[Views of the US Department of Transportation] - To: Mitchell E. Daniels, Jr. - From: Kirk K. Van Tine	2	12/17/2001	P5;
007	Letter	[Views of the US Department of Justice] - To: Mitchell E. Daniels, Jr. - From: Daniel J. Bryant	3	12/20/2001	P5;

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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.
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STATEMENT BY THE PRESIDENT

I have today signed into law S. 1438, the "National Defense Authorization Act for Fiscal Year 2002." The Act authorizes the funding necessary to defend the United States and its interests around the globe. In particular, it provides the resources needed to continue the war against global terrorism, accelerate programs for defense against biological or chemical attacks, 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.

The Act provides important improvements in the quality of life for the members of our Armed Forces, who have dedicated their lives to the defense of their fellow citizens. It provides for a substantial and well-deserved increase in basic pay, improved educational opportunities as an incentive to reenlist, and more resources to improve military housing. The legislation also addresses important needs of military families, such as improved job training and education opportunities for military spouses and access for home-schooled children of military families to facilities and programs of Department of Defense dependent schools.

The Act will assist greatly in the rebuilding and reshaping of the Armed Forces to meet future challenges. In particular, it provides procurement authority for programs crucial to the projection of American military power in support of U.S. interests abroad, such as carrier-based strike aircraft, air superiority fighter aircraft, large-capacity cargo aircraft, and a fast attack submarine. The Act also authorizes funds to move forward with our program for an effective defense against ballistic missiles.

The legislation reflects my Administration's important initiative to establish a process for realignment and closure of unneeded military facilities. Such realignments and closures will allow the Government to use more effectively the taxpayer resources devoted to the national defense. As the Act requires, military value will be the primary consideration in recommending realignments and closures. Regrettably, the Act defers the start of the base closure and realignment process for several years, rather than providing for its immediate commencement to permit efficient restructuring promptly.

Section 1116 of the Act authorizes Federal agency employees to retain and make personal use of promotional items such as frequent flyer miles, upgrades or access to carrier clubs or facilities received as a result of certain official travel. Agency regulations will ensure that, in connection with implementation of Section 1114, employees fully observe applicable principles of ethics in government and regulations which prevent unneeded or inefficient official travel.

The Act contains several provisions intended to improve the ability of members of the Armed Forces to exercise one of the most important rights that any citizen has -- the right to vote. Section 1605 of the Act requires State Governors, in certain circumstances, to provide reports to the Secretary of Defense concerning the Secretary's recommendations on State voting laws, including what recommendations the Governor has made or will make to the State legislature on the Secretary's recommendations. Section 1605 shall be implemented in a manner consistent with proper regard for the role of the States, and their legislatures and Governors, in our Federal system.

Several provisions of the Act, including sections 525(c), 546, 705, and 3152 call for Executive Branch officials to submit to Congress proposals for legislation. These provisions shall be implemented in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to recommend to Congress such measures as the President judges necessary and expedient.

Section 1404 vests in the Secretary of Defense authority to appoint a chief operating officer for the Armed Forces Retirement Home, but purports to limit the qualifications of the pool of persons from whom the Secretary may select the appointee in a manner that rules out a large portion of those persons best qualified by experience and knowledge to fill the office. The Secretary shall implement Section 1404 in a manner consistent with the Appointments Clause of the Constitution.

Under Section 1002 of the Act, Congress has stated that it incorporates a classified annex into the statute. This annex contains authorizations of appropriations for specified classified programs. I urge Congress to avoid efforts to enact secret law as part of future defense authorization acts.

Other Major Provisions of S. 1438

Other Significant Defense Provisions

Nonproliferation - Cooperative Threat Reduction (CTR). The enrolled bill contains a number of nonproliferation-related provisions. One provision authorizes \$403 million for CTR programs (as requested) to assist in the de-nuclearization and de-militarization of the states of the former Soviet Union. S. 1438 authorizes funding to begin work on a chemical weapons destruction facility at Shchuch'ye, Russia, subject to a Secretary of Defense certification of specified Russian commitments or actions concerning chemical weapons. Also, the enrolled bill will permanently prohibit using CTR funds to construct fossil fuel plants (to replace closed plutonium-producing nuclear plants). Finally, the bill will require the President to submit to Congress by June 15, 2002, a plan to improve the security of (including reducing) nuclear weapons and material of the states of the former Soviet Union.

Strategic Weapons. The enrolled bill will remove the current restrictions on the retirement of Peacekeeper missiles (as requested) to allow the reduction of U.S. nuclear weapons to a level below that mandated by the Strategic Arms Reduction Treaty II.

Chemical Agents and Munitions Destruction. S. 1438 would authorize the requested FY 2002 appropriations of \$1.154 billion to allow the Army to continue with the destruction of chemical weapons stockpiles in the United States.

Funding for Bosnia and Kosovo Peacekeeping. The enrolled bill limits authorized funding for Bosnia and Kosovo peacekeeping operations to the amounts in the request (i.e., \$1.3 billion for Bosnia and \$1.5 billion for Kosovo). The President may waive the limitation only after submitting to Congress: (1) a certification that doing so is necessary to the national security interests of the United States and does not adversely affect the readiness of U.S. military forces; (2) a report on the reasons for the waiver and the impact of the U.S. military involvement in these peacekeeping operations on U.S. military readiness; and (3) a FY 2002 supplemental appropriations request for DoD for costs associated with these peacekeeping operations.

Health Programs. The enrolled bill authorizes full funding of the request (\$18 billion) for Defense Health Programs. S. 1438 includes provisions in support of the Presidential Initiative to better coordinate health services provided by the Department of Veterans Affairs (VA) and DoD (e.g., a joint DoD-VA pilot program for providing graduate medical education and training for physicians). However, the enrolled bill prohibits the Secretary of Defense from ensuring (as the Administration proposed) that military retirees choose between DoD and VA for health care. The enrolled bill authorizes your budget proposal to allow DoD to reimburse private sector nursing facilities and hospital outpatient facilities at the lower Medicare rates, and aligns DoD's long-term care access with that of Medicare. This provides FY 2002 savings of over \$200 million in discretionary funds. S. 1438 provides technical changes to health accrual funding for

Medicare-eligible military retirees, but contrary to your request makes the participation of retirees from the other Uniformed Services voluntary instead of mandatory. The enrolled bill also authorizes research to be conducted on military members without their informed consent in order to advance the development of a medical product necessary to the Armed Forces.

Montgomery GI Bill (MGIB) and Other Benefits. S. 1438 authorizes certain service members with certain critical skills or specialties and at least six years of service (with follow-on commitments) to transfer up to 18 months of unused basic MGIB education benefits to the member's spouse or children. OMB estimates this benefit would increase direct spending by \$91 million over ten years.

Survivor Benefit Plan. The bill expands entitlement to the Survivor Benefit Plan to all active-duty deaths, significantly increasing death benefits for military personnel. Currently, only retirement-eligible members who die on active duty are entitled to this benefit. Under S. 1438, benefits equaling 55 percent of the member's maximum retirement annuity will be awarded to the surviving spouse of any active duty service member who dies in the line of duty. OMB estimates this benefit would increase direct spending by \$27 million over ten years.

Concurrent Receipt of Disability and Retirement Benefits. S. 1438 authorizes military retirees to receive VA disability compensation without a required current law reduction in retirement pay, but only after the President submits, and the Congress enacts, legislation to expressly offset the costs of this initiative. The Administration opposed the Senate version of the provision which would have mandated these benefits, and which OMB had estimated would cost about \$41 billion over 10 years.

Auxiliary Services for Home-Schooled Students. The enrolled bill will permit students who are home-schooled, but eligible to enroll in a school of the of the Defense dependent's education system, to use that school's auxiliary services without being required to either enroll in that school or register for a minimum number of courses. The student would, however, be required to comply with the standards of conduct applicable to other students using the same auxiliary service. Auxiliary services is defined as the school library, extracurricular activities, etc.

Military Housing Privatization. S. 1438 extends through 2012 the Military Housing Privatization Initiative, which uses private sector expertise and capital to accelerate improvement of government-owned housing. DoD has testified to Congress that privatization projects, dollar for dollar, yield significantly more quality housing than traditional military construction dollars do and consequently, considers this initiative essential to revitalize inadequate housing by the end of the decade.

Counterdrug/Colombia. The enrolled bill authorizes the requested \$802 million for counterdrug activities, authorizes DoD support for counterdrug activities through FY 2006, and removes an objectionable House provision that continued the limitation of 500 U.S. military personnel authorized to be on duty in Colombia. S. 1438 will also limit the obligation of funding of the Tethered Aerostat Radar System (TARS) pending submission of a required report on TARS to Congress, and will prohibit Tracker aircraft in the DoD inventory after September 30, 2002, from being used for counterdrug purposes.

National Training Center at Fort Irwin, California. Largely consistent with an Administration proposal, the enrolled bill expands the Army's National Training Center by adding over 110,000 acres of open maneuver space to address the Army's need to train over larger areas to accommodate the increased speed, range, and power of weapon systems while also addressing environmental concerns. The Secretaries of the Army and the Interior would be required to enter into agreements, comply with environmental laws, and, with others, consult on the land arrangements and environmental management plans.

Voting Provisions relating to Military Personnel. The enrolled bill requires DoD to issue regulations to ensure that the Federal Voting Assistance Program requirements are being met, and to conduct a demonstration project in 2002 for transmitting military absentee votes through an electronic voting system. Each Service Inspector General would be required to conduct an annual review for compliance. The enrolled bill would require States, subject to certain conditions, to allow deployed military personnel and other overseas voters to simultaneously register to vote and apply for an absentee ballot for any Federal election, and when requested by these voters, to automatically mail ballots for any subsequent Federal election for that year. S. 1438 also requires State Governors, in certain circumstances, to provide reports to the Secretary of Defense concerning the Secretary's recommendations on State voting laws, including what recommendations the Governor has made or will make to the State legislature on the Secretary's recommendations.

Navy Marine Corps Intranet (NMCI). Initiated by the Navy in 1999, NMCI is a long-term initiative between the Navy and the private sector to deliver a single integrated and coherent department-wide network for Navy and Marine Corps shore commands. If implemented successfully, it would provide comprehensive, end-to-end information services for data, video and voice communications for Navy military and civilian personnel, and deliver global connectivity. S. 1438 would largely authorize DoD's rephased implementation plan, but would include certain requirements, including the successful completion of a customer test and evaluation, as well as performance milestones. The enrolled bill also requires the Secretary of the Navy to identify a single NMCI manager.

Military Border Patrol. The enrolled bill does not include a House provision that would have authorized the use of military personnel to assist other Federal agencies in patrolling the borders.

Defense Impact Review. The enrolled bill requires the Secretary of Defense to recommend to the President (and provide a copy to Congress) within 180 days after enactment of this bill whether or not to establish a defense impact review process in the Executive Branch.

The intended purpose is to review "certain proposed actions of other Federal agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense."

Pentagon Reservation and September 11 Memorial. S. 1438 authorizes DoD to accept monetary contributions made for the sole purpose of establishing a memorial at the Pentagon, or assisting in repair and reconstruction of the Pentagon Reservation following the September 11 terrorist attack. The bill also removes a previous legislative limit on the cost of renovating the Pentagon.

Department of Energy

S. 1438 authorizes \$14 billion for the Department of Energy's national security programs. This includes \$6.2 billion for the Defense Environmental Management program (\$435 million above the request). This increase is partially offset by a \$28 million reduction for Energy's Other Defense Activities (\$528 million requested) and a \$30 million cut for Defense Nuclear Waste Disposal (\$310 million requested). Funding for the National Nuclear Security Administration is described below.

National Nuclear Security Administration (NNSA). The enrolled bill authorizes \$7.1 billion for NNSA programs, \$344 million more than the request. The enacted FY 2002 appropriation for NNSA is \$7.2 billion. Within the authorized amount, S. 1438 authorizes \$5.3 billion for Weapons Activities, \$776.9 million for Nuclear Nonproliferation programs (separate from the CTR Programs), \$688 million for Naval Reactors, and \$313 million for overhead and salaries to manage the programs. The enrolled bill authorizes approximately \$299 million above your request for Weapons Activities and \$44 million above the request for Nuclear Nonproliferation. The authorized level for Naval Reactors is equal to the request.

Disposition of Plutonium at the Savannah River Site. S. 1438 requires the Secretary of Energy to consult with the Governor of South Carolina on plans related to the disposition of surplus plutonium materials at the Savannah River Site. Prior to beginning each shipment of plutonium to the Site, the Secretary must provide 30 days notice to the congressional defense committees. Also, the Secretary must prepare a disposition plan for the timely removal of plutonium from the Savannah River Site for storage or disposal elsewhere. The bill prohibits the Secretary from shipping plutonium to the Site after February 1, 2002, if the plan has not been submitted to Congress.

Rocky Flats National Wildlife Refuge. S. 1438 would, subject to certain conditions, require the Department of Energy to transfer its Rocky Flats site near Denver, Colorado, to Interior as this site would become a unit of the National Wildlife Refuge System. The transfer would occur after EPA certifies that cleanup and closure of the site by Energy is complete. A Memorandum of Understanding between Energy and Interior, to be drafted and finalized within specified time periods, would address agency responsibilities, including allocation of costs associated with post-transfer environment-related actions.

Energy Employees Occupational Illness Compensation Program. The FY 2001 National Defense Authorization Act established a program to compensate Department of Energy workers, and contractor and vendor employees, who have developed specified illnesses as a result of their work in the DOE nuclear weapons complex. The covered illnesses are chronic berylliosis and beryllium sensitivity, radiogenic cancer, and chronic silicosis. Among other changes, S. 1438 would relax the threshold standard for determining chronic silicosis to the level required for RECA (see next item) and expands the category of individuals eligible to collect survivors' benefits. OMB estimates the ten-year mandatory cost of these changes is \$195 million.

Other Significant Provisions

Radiation Exposure Compensation Act (RECA). S. 1438 changes the funding of the Radiation Exposure Compensation Trust Fund to mandatory appropriations, and provides up to \$655 million for fiscal years FY 2002-2011. The 1990 RECA statute authorized Federal compensation to persons who became ill as a result of exposure to radiation associated with the Government's nuclear weapons testing program during the Cold War. Since 1990, the Fund has been a discretionary program. However, Congress expanded eligibility for RECA in 2000 without providing adequate additional funding. This language provides funding to meet current and future claims. OMB estimates this benefit would increase direct spending by \$648 million over ten years.

Assistance to Firefighters. The enrolled bill would authorize appropriations for FY 2002 through 2004 for assistance for firefighters to be provided by the Federal Emergency Management Agency's U.S. Fire Administration. The bill would raise the amount previously authorized for FY 2002 from \$300 million to \$600 million, and set authorizations of up to \$800 million in FY 2003 and \$1 billion in FY 2004. The Administration did not request an increase in the authorized level.

Hostile Fire Pay. S. 1438 authorizes a new pay rate for civilian Federal employees who are exposed to hostile fire or mines, or who are in imminent danger of such exposure. The pay would be \$150 per month (the same rate as a similar authority for military personnel) for the month employees are exposed, and is retroactive to September 11, 2001.

Retention of Travel Promotional Items. The enrolled bill authorizes Federal employees, members of the Foreign Service, military members, and their family members to retain for personal use promotional items (e.g., frequent flyer miles) received as a result of using travel or transportation services paid for by the Federal Government or under certain other circumstances.

Federal Prison Industries (FPI). The enrolled bill requires DoD to conduct market research to determine if FPI products and delivery schedules are comparable to those of the private sector. If the Secretary determines they are not, then DoD shall compete the bids for procurement of these items.

Reporting Requirements. S. 1438 includes over 90 reporting requirements, including those highlighted above to Congress (primarily to the House and Senate Armed Services Committees) on subjects ranging from the missile defense plans and activities to the implementation of recommendations of the acquisition 2005 task force.

Attachment B

FY 2002 Authorizations by Appropriation Category
(Total Discretionary and Mandatory Budget Authority in \$ billions)

	<u>Request</u>	<u>S. 1438</u>	<u>Difference</u>
DoD-Military (051)			
Military Personnel	82.3	82.3	0.0
Operations and Maintenance	125.9	123.9	-2.0
Procurement	61.6	62.4	0.8
Research, Development, Test and Evaluation *	47.4	46.5	-0.9
Military Construction	5.9	6.4	0.5
Family Housing	4.1	4.1	0.0
Revolving Funds	2.3	2.1	-0.2
Unallocated for Missile Defense (MD) or Counter- Terrorism Funds*	\$1.3b for MD incl..above]	1.3	1.3
Other	<u>-1.7</u>	<u>-1.7</u>	<u>0.0</u>
Total DoD-Military	327.8	327.3	-0.5
 DoE and Related Programs	 14.2	 14.4	 0.2
Other Defense	1.5	1.7	0.2
 Total National Defense Function (050)	 343.5	 343.4	 -0.1

* S. 1438 requires a Presidential determination to allocate these funds for either activity. Once a determination is made, S. 1438 allocations by major category would be adjusted. If amounts are provided for Missile Defense, RDT&E would be increased.

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Several provisions of the Act, including sections 525(c), 546, 705, and 3152 call for Executive Branch officials to submit to Congress proposals for legislation. These provisions shall be implemented in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to recommend to Congress such measures as the President judges necessary and expedient.

Section 1404 vests in the Secretary of Defense authority to appoint a chief operating officer for the Armed Forces Retirement Home, but purports to limit the qualifications of the pool of persons from whom the Secretary may select the appointee in a manner that rules out a large portion of those persons best qualified by experience and knowledge to fill the office. The Secretary shall implement Section 1404 in a manner consistent with the Appointments Clause of the Constitution.

Under Section 1002 of the Act, Congress has stated that it incorporates a classified annex into the statute. This annex contains authorizations of appropriations for specified classified programs. I urge Congress to avoid efforts to enact secret law as part of future defense authorization acts.

Other Major Provisions of S. 1438

Other Significant Defense Provisions

Nonproliferation - Cooperative Threat Reduction (CTR). The enrolled bill contains a number of nonproliferation-related provisions. One provision authorizes \$403 million for CTR programs (as requested) to assist in the de-nuclearization and de-militarization of the states of the former Soviet Union. S. 1438 authorizes funding to begin work on a chemical weapons destruction facility at Shchuch'ye, Russia, subject to a Secretary of Defense certification of specified Russian commitments or actions concerning chemical weapons. Also, the enrolled bill will permanently prohibit using CTR funds to construct fossil fuel plants (to replace closed plutonium-producing nuclear plants). Finally, the bill will require the President to submit to Congress by June 15, 2002, a plan to improve the security of (including reducing) nuclear weapons and material of the states of the former Soviet Union.

Strategic Weapons. The enrolled bill will remove the current restrictions on the retirement of Peacekeeper missiles (as requested) to allow the reduction of U.S. nuclear weapons to a level below that mandated by the Strategic Arms Reduction Treaty II.

Chemical Agents and Munitions Destruction. S. 1438 would authorize the requested FY 2002 appropriations of \$1.154 billion to allow the Army to continue with the destruction of chemical weapons stockpiles in the United States.

Funding for Bosnia and Kosovo Peacekeeping. The enrolled bill limits authorized funding for Bosnia and Kosovo peacekeeping operations to the amounts in the request (i.e., \$1.3 billion for Bosnia and \$1.5 billion for Kosovo). The President may waive the limitation only after submitting to Congress: (1) a certification that doing so is necessary to the national security interests of the United States and does not adversely affect the readiness of U.S. military forces; (2) a report on the reasons for the waiver and the impact of the U.S. military involvement in these peacekeeping operations on U.S. military readiness; and (3) a FY 2002 supplemental appropriations request for DoD for costs associated with these peacekeeping operations.

Health Programs. The enrolled bill authorizes full funding of the request (\$18 billion) for Defense Health Programs. S. 1438 includes provisions in support of the Presidential Initiative to better coordinate health services provided by the Department of Veterans Affairs (VA) and DoD (e.g., a joint DoD-VA pilot program for providing graduate medical education and training for physicians). However, the enrolled bill prohibits the Secretary of Defense from ensuring (as the Administration proposed) that military retirees choose between DoD and VA for health care. The enrolled bill authorizes your budget proposal to allow DoD to reimburse private sector nursing facilities and hospital outpatient facilities at the lower Medicare rates, and aligns DoD's long-term care access with that of Medicare. This provides FY 2002 savings of over \$200 million in discretionary funds. S. 1438 provides technical changes to health accrual funding for

Medicare-eligible military retirees, but contrary to your request makes the participation of retirees from the other Uniformed Services voluntary instead of mandatory. The enrolled bill also authorizes research to be conducted on military members without their informed consent in order to advance the development of a medical product necessary to the Armed Forces.

Montgomery GI Bill (MGIB) and Other Benefits. S. 1438 authorizes certain service members with certain critical skills or specialties and at least six years of service (with follow-on commitments) to transfer up to 18 months of unused basic MGIB education benefits to the member's spouse or children. OMB estimates this benefit would increase direct spending by \$91 million over ten years.

Survivor Benefit Plan. The bill expands entitlement to the Survivor Benefit Plan to all active-duty deaths, significantly increasing death benefits for military personnel. Currently, only retirement-eligible members who die on active duty are entitled to this benefit. Under S. 1438, benefits equaling 55 percent of the member's maximum retirement annuity will be awarded to the surviving spouse of any active duty service member who dies in the line of duty. OMB estimates this benefit would increase direct spending by \$27 million over ten years.

Concurrent Receipt of Disability and Retirement Benefits. S. 1438 authorizes military retirees to receive VA disability compensation without a required current law reduction in retirement pay, but only after the President submits, and the Congress enacts, legislation to expressly offset the costs of this initiative. The Administration opposed the Senate version of the provision which would have mandated these benefits, and which OMB had estimated would cost about \$41 billion over 10 years.

Auxiliary Services for Home-Schooled Students. The enrolled bill will permit students who are home-schooled, but eligible to enroll in a school of the of the Defense dependent's education system, to use that school's auxiliary services without being required to either enroll in that school or register for a minimum number of courses. The student would, however, be required to comply with the standards of conduct applicable to other students using the same auxiliary service. Auxiliary services is defined as the school library, extracurricular activities, etc.

Military Housing Privatization. S. 1438 extends through 2012 the Military Housing Privatization Initiative, which uses private sector expertise and capital to accelerate improvement of government-owned housing. DoD has testified to Congress that privatization projects, dollar for dollar, yield significantly more quality housing than traditional military construction dollars do and consequently, considers this initiative essential to revitalize inadequate housing by the end of the decade.

Counterdrug/Colombia. The enrolled bill authorizes the requested \$802 million for counterdrug activities, authorizes DoD support for counterdrug activities through FY 2006, and removes an objectionable House provision that continued the limitation of 500 U.S. military personnel authorized to be on duty in Colombia. S. 1438 will also limit the obligation of funding of the Tethered Aerostat Radar System (TARS) pending submission of a required report on TARS to Congress, and will prohibit Tracker aircraft in the DoD inventory after September 30, 2002, from being used for counterdrug purposes.

National Training Center at Fort Irwin, California. Largely consistent with an Administration proposal, the enrolled bill expands the Army's National Training Center by adding over 110,000 acres of open maneuver space to address the Army's need to train over larger areas to accommodate the increased speed, range, and power of weapon systems while also addressing environmental concerns. The Secretaries of the Army and the Interior would be required to enter into agreements, comply with environmental laws, and, with others, consult on the land arrangements and environmental management plans.

Voting Provisions relating to Military Personnel. The enrolled bill requires DoD to issue regulations to ensure that the Federal Voting Assistance Program requirements are being met, and to conduct a demonstration project in 2002 for transmitting military absentee votes through an electronic voting system. Each Service Inspector General would be required to conduct an annual review for compliance. The enrolled bill would require States, subject to certain conditions, to allow deployed military personnel and other overseas voters to simultaneously register to vote and apply for an absentee ballot for any Federal election, and when requested by these voters, to automatically mail ballots for any subsequent Federal election for that year. S. 1438 also requires State Governors, in certain circumstances, to provide reports to the Secretary of Defense concerning the Secretary's recommendations on State voting laws, including what recommendations the Governor has made or will make to the State legislature on the Secretary's recommendations.

Navy Marine Corps Intranet (NMCI). Initiated by the Navy in 1999, NMCI is a long-term initiative between the Navy and the private sector to deliver a single integrated and coherent department-wide network for Navy and Marine Corps shore commands. If implemented successfully, it would provide comprehensive, end-to-end information services for data, video and voice communications for Navy military and civilian personnel, and deliver global connectivity. S. 1438 would largely authorize DoD's rephased implementation plan, but would include certain requirements, including the successful completion of a customer test and evaluation, as well as performance milestones. The enrolled bill also requires the Secretary of the Navy to identify a single NMCI manager.

Military Border Patrol. The enrolled bill does not include a House provision that would have authorized the use of military personnel to assist other Federal agencies in patrolling the borders.

Defense Impact Review. The enrolled bill requires the Secretary of Defense to recommend to the President (and provide a copy to Congress) within 180 days after enactment of this bill whether or not to establish a defense impact review process in the Executive Branch.

The intended purpose is to review "certain proposed actions of other Federal agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense."

Pentagon Reservation and September 11 Memorial. S. 1438 authorizes DoD to accept monetary contributions made for the sole purpose of establishing a memorial at the Pentagon, or assisting in repair and reconstruction of the Pentagon Reservation following the September 11 terrorist attack. The bill also removes a previous legislative limit on the cost of renovating the Pentagon.

Department of Energy

S. 1438 authorizes \$14 billion for the Department of Energy's national security programs. This includes \$6.2 billion for the Defense Environmental Management program (\$435 million above the request). This increase is partially offset by a \$28 million reduction for Energy's Other Defense Activities (\$528 million requested) and a \$30 million cut for Defense Nuclear Waste Disposal (\$310 million requested). Funding for the National Nuclear Security Administration is described below.

National Nuclear Security Administration (NNSA). The enrolled bill authorizes \$7.1 billion for NNSA programs, \$344 million more than the request. The enacted FY 2002 appropriation for NNSA is \$7.2 billion. Within the authorized amount, S. 1438 authorizes \$5.3 billion for Weapons Activities, \$776.9 million for Nuclear Nonproliferation programs (separate from the CTR Programs), \$688 million for Naval Reactors, and \$313 million for overhead and salaries to manage the programs. The enrolled bill authorizes approximately \$299 million above your request for Weapons Activities and \$44 million above the request for Nuclear Nonproliferation. The authorized level for Naval Reactors is equal to the request.

Disposition of Plutonium at the Savannah River Site. S. 1438 requires the Secretary of Energy to consult with the Governor of South Carolina on plans related to the disposition of surplus plutonium materials at the Savannah River Site. Prior to beginning each shipment of plutonium to the Site, the Secretary must provide 30 days notice to the congressional defense committees. Also, the Secretary must prepare a disposition plan for the timely removal of plutonium from the Savannah River Site for storage or disposal elsewhere. The bill prohibits the Secretary from shipping plutonium to the Site after February 1, 2002, if the plan has not been submitted to Congress.

Rocky Flats National Wildlife Refuge. S. 1438 would, subject to certain conditions, require the Department of Energy to transfer its Rocky Flats site near Denver, Colorado, to Interior as this site would become a unit of the National Wildlife Refuge System. The transfer would occur after EPA certifies that cleanup and closure of the site by Energy is complete. A Memorandum of Understanding between Energy and Interior, to be drafted and finalized within specified time periods, would address agency responsibilities, including allocation of costs associated with post-transfer environment-related actions.

Energy Employees Occupational Illness Compensation Program. The FY 2001 National Defense Authorization Act established a program to compensate Department of Energy workers, and contractor and vendor employees, who have developed specified illnesses as a result of their work in the DOE nuclear weapons complex. The covered illnesses are chronic berylliosis and beryllium sensitivity, radiogenic cancer, and chronic silicosis. Among other changes, S. 1438 would relax the threshold standard for determining chronic silicosis to the level required for RECA (see next item) and expands the category of individuals eligible to collect survivors' benefits. OMB estimates the ten-year mandatory cost of these changes is \$195 million.

Other Significant Provisions

Radiation Exposure Compensation Act (RECA). S. 1438 changes the funding of the Radiation Exposure Compensation Trust Fund to mandatory appropriations, and provides up to \$655 million for fiscal years FY 2002-2011. The 1990 RECA statute authorized Federal compensation to persons who became ill as a result of exposure to radiation associated with the Government's nuclear weapons testing program during the Cold War. Since 1990, the Fund has been a discretionary program. However, Congress expanded eligibility for RECA in 2000 without providing adequate additional funding. This language provides funding to meet current and future claims. OMB estimates this benefit would increase direct spending by \$648 million over ten years.

Assistance to Firefighters. The enrolled bill would authorize appropriations for FY 2002 through 2004 for assistance for firefighters to be provided by the Federal Emergency Management Agency's U.S. Fire Administration. The bill would raise the amount previously authorized for FY 2002 from \$300 million to \$600 million, and set authorizations of up to \$800 million in FY 2003 and \$1 billion in FY 2004. The Administration did not request an increase in the authorized level.

Hostile Fire Pay. S. 1438 authorizes a new pay rate for civilian Federal employees who are exposed to hostile fire or mines, or who are in imminent danger of such exposure. The pay would be \$150 per month (the same rate as a similar authority for military personnel) for the month employees are exposed, and is retroactive to September 11, 2001.

Retention of Travel Promotional Items. The enrolled bill authorizes Federal employees, members of the Foreign Service, military members, and their family members to retain for personal use promotional items (e.g., frequent flyer miles) received as a result of using travel or transportation services paid for by the Federal Government or under certain other circumstances.

Federal Prison Industries (FPI). The enrolled bill requires DoD to conduct market research to determine if FPI products and delivery schedules are comparable to those of the private sector. If the Secretary determines they are not, then DoD shall compete the bids for procurement of these items.

Reporting Requirements. S. 1438 includes over 90 reporting requirements, including those highlighted above to Congress (primarily to the House and Senate Armed Services Committees) on subjects ranging from the missile defense plans and activities to the implementation of recommendations of the acquisition 2005 task force.

Attachment B

FY 2002 Authorizations by Appropriation Category
(Total Discretionary and Mandatory Budget Authority in \$ billions)

	<u>Request</u>	<u>S. 1438</u>	<u>Difference</u>
DoD-Military (051)			
Military Personnel	82.3	82.3	0.0
Operations and Maintenance	125.9	123.9	-2.0
Procurement	61.6	62.4	0.8
Research, Development, Test and Evaluation *	47.4	46.5	-0.9
Military Construction	5.9	6.4	0.5
Family Housing	4.1	4.1	0.0
Revolving Funds	2.3	2.1	-0.2
Unallocated for Missile Defense (MD) or Counter- Terrorism Funds*	\$1.3b for MD incl..above]	1.3	1.3
Other	<u>-1.7</u>	<u>-1.7</u>	<u>0.0</u>
Total DoD-Military	327.8	327.3	-0.5
DoE and Related Programs	14.2	14.4	0.2
Other Defense	1.5	1.7	0.2
Total National Defense Function (050)	343.5	343.4	-0.1

* S. 1438 requires a Presidential determination to allocate these funds for either activity. Once a determination is made, S. 1438 allocations by major category would be adjusted. If amounts are provided for Missile Defense, RDT&E would be increased.



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

DEC 21 2001

The Honorable Mitchell E. Daniels, Jr.
Director, Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Daniels:

This letter represents the views of the Department of Defense on enrolled bill S. 1438, the "National Defense Authorization Act for Fiscal Year 2002."

The Department of Defense recommends that the President approve the enrolled bill.

This bill provides authorizations generally for National Defense activities for Fiscal Year 2002. These include activities of the Department of Defense relating to procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military construction and housing, the national security programs of the Department of Energy, and other National Defense programs and activities.

Enclosed is a summary of various provisions of the enrolled bill and a proposed signing statement.

Sincerely,

A handwritten signature in black ink, appearing to read "W. F. Haynes II".

William F. Haynes

Enclosures
As Stated



Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Draft	[Statement by the President] - From: William J. Haynes	1 2	12/21/2001	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
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Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

12/28/2001 [S. 1438] [1]

FRC ID:

781

OA Num.:

732

NARA Num.:

1458

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]

**SUMMARY OF ITEMS OF PARTICULAR INTEREST IN S. 1438
NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002**

S. 1438 consists of three divisions: Division A, which authorizes appropriations, generally, for the Department of Defense; Division B, which authorizes appropriations for military construction, as well as provides for the 2005 round of base realignments and closures; and Division C, which authorizes appropriations for Department of Energy national security programs.

The enrolled bill authorizes appropriations of \$343.4 billion for Department of Defense programs, military construction, and related activities for fiscal year 2002, an amount roughly equal to the President's \$343.5 billion request.

DIVISION A — DEPARTMENT OF DEFENSE AUTHORIZATIONS

Title I — Procurement

Title I authorizes appropriations of nearly \$62.4 billion for procurement, which is approximately \$0.8 billion more than requested by the Administration's \$61.6 billion request.

Specific procurement authorities and highlights are as follows:

Army—

Title I authorizes appropriations of more than \$10.7 billion for Army procurement.

Section 112 extends, through fiscal year 2002, the pilot program on sales of manufactured articles and services of certain Army industrial facilities, but restricts the Secretary of Defense's use of such articles or services to one facility.

Section 113 authorizes the Secretary of Defense, upon certification to the congressional defense committees, to waive (1) the requirement that the Secretary of the Army develop a plan for comparing costs and effectiveness of medium armored combat vehicles for the infantry battalions of the interim brigade combat teams and (2) the limitations on the obligation of funds for medium armored combat vehicles to equip a third interim brigade combat team.

Navy—

Title I authorizes appropriations of nearly \$23.5 billion for Navy procurement.

Section 121 authorizes the Secretary of Navy to procure seven Virginia class submarines for fiscal years 2003-2007. Presently, the Secretary of the Navy may enter into a procurement contract

for five submarines for fiscal years 2003-2006.

Section 122 authorizes the Secretary of the Navy to enter into a multi-year procurement contract for F/A-18E/F aircraft engines.

Section 123 prohibits an increase in the production rate for the V-22 Osprey aircraft until the Secretary of Defense certifies that operational testing has successfully demonstrated, in part, the reliability and maintainability of the aircraft.

Air Force—

Title I authorizes appropriations of more than \$23 billion for Air Force procurement.

Section 131 authorizes the Secretary of the Air Force to enter into a multiyear procurement contract for up to 60 C-17 aircraft for a six-year period.

Title II — Research, Development, Test, and Evaluation

Title II authorizes appropriations of nearly \$46.5 billion for Department of Defense research, development, test, and evaluation — approximately \$0.9 billion less than the Administration's \$47.4 billion request — of which more than \$5 billion is available for basic research and applied research projects. Of the total amount:

Nearly \$6.7 billion is authorized to be appropriated for the Army.

Nearly \$10.8 billion is authorized to be appropriated for the Navy.

More than \$14.4 billion is authorized to be appropriated for the Air Force.

Nearly \$14.6 billion is authorized to be appropriated for Defense-wide activities, including \$221 million for the Director of Operational Test and Evaluation.

Section 212 requires the Secretary of Defense to carry out a program to develop and demonstrate advanced technologies and concepts leading to advanced radar systems for naval and other applications.

Section 213 repeals the limitations on total cost of engineering and manufacturing development for the F-22 aircraft program.

Section 214 extends, through fiscal year 2002, the current limitations on obligations and reports to be provided to Congress concerning procurement of anthrax vaccine.

Sections 231 through 235 pertain to Ballistic Missile Defense.

Section 231 provides for the presentation of amounts for research, development, test, and evaluation of the Ballistic Missile Defense program in the budget. In addition, this section requires the Secretary of Defense to establish criteria for the transfer of responsibility for a ballistic missile defense program from the Ballistic Missile Defense Organization to the military departments. The criteria must address, at a minimum, the technical maturity of the program, the availability of production facilities, and the commitment to future procurement funding for the program.

Section 232 establishes six new functional program elements and requires that additional program elements be established for ballistic missile defense programs entering into engineering and manufacturing development. In addition, this section requires the Secretary of Defense to establish cost, schedule, testing, and performance goals for ballistic missile defense programs and the Director of the Ballistic Missile Defense Organization to develop a plan to ensure that each critical technology for a ballistic missile defense program is demonstrated in an appropriate environment before entering operational service.

Section 233 provides that, from the amounts appropriated, \$25 million is available to the Director of the Ballistic Missile Defense Organization for research, development, and demonstration activities at the national laboratories of the Department of Energy.

Section 234 establishes guidelines and requirements for the ballistic missile defense testing program of the Department of Defense.

Section 235 authorizes the Secretary of Defense to use up to \$500 million to construct facilities necessary to operate the Missile Defense System Test Bed. The provision would also authorize the Secretary of Defense to use such funds to provide assistance to communities to meet increased needs for services or facilities resulting from construction or operation of the test bed.

Section 261 requires the commander of the United States Joint Forces Command to establish a joint operational test bed system to evaluate and ensure joint interoperability of unmanned aerial vehicle systems. In addition, this section requires the Secretary of the Navy to ensure that the commander controls the priority for use of these Predator unmanned aerial vehicles.

Title III — Operation and Maintenance

Subtitle A. Authorization of Appropriations—Section 301 authorizes appropriation of \$123.26 billion for Department of Defense operation and maintenance. This is \$2.09 billion less than the President's request. Major divisions are for the Army, \$20.65 billion; for the Navy, \$26.46 billion; for the Marines, \$2.87 billion; for the Air Force, \$25.6 billion; and for Defense-wide activities, \$11.95

billion. The totals for these five categories were reduced by \$125 million to represent savings resulting from reduced energy costs. Section 301 also authorizes \$7.66 billion for the National Guard; \$5 billion for the Reserves; \$17.57 billion for the Defense Health Program; \$1.29 billion for environmental restoration programs; \$49.7 million for Overseas Humanitarian, Disaster, and Civic Aid programs; \$820.38 million for Drug Interdiction and Counter-drug Activities, Defense-wide; \$403 million for Cooperative Threat Reduction programs; and \$2.84 billion for the Overseas Contingency Operations Transfer Fund.

Section 302 authorizes \$1.66 billion for the Defense Working Capital Funds and \$407.7 million for the National Defense Sealift Fund.

Section 303 authorizes \$71.44 million to be appropriated from the Armed Forces Retirement Home Trust Fund for the operation of the Armed Forces Retirement Home. Of that amount, \$22.4 million is available for the development and construction of a blended use, multicare facility at the Naval Home and for the acquisition of approximately 15 acres of real property adjacent to the Naval Home.

Section 304 authorizes \$150 million from the National Defense Stockpile to be transferred to the Military Department operation and maintenance accounts.

Section 305 authorizes the Secretary of the Navy to use up to \$2 million from the Navy's operations and maintenance account for the renovation and relocation of Department of Veterans Affairs facilities at the Naval Training Center, Great Lakes, Illinois, but only after the Secretary of the Navy and the Secretary of Veterans Affairs enter into an agreement to provide 48 acres of Department of Veterans Affairs property for the expansion of the Naval Training Center.

Section 306 authorizes \$650,000 from the Army operations and maintenance account for an expanded Arabic language program at the Defense Language Institute Foreign Language Center.

Subtitle B. Environmental Provisions—Sections 311 through 313 require the Secretary of Defense to develop and maintain an inventory of defense sites that are known or suspected to contain unexploded ordnance, discarded military munitions, or munitions constituents; establish program elements within each environmental restoration account for remediation of unexploded ordnance, discarded military munitions, or munitions constituents; and prepare a comprehensive assessment of unexploded ordnance, discarded military munitions, or munitions constituents at current or former Department of Defense facilities.

Section 314 eliminates the sunset date for the surety provisions in section 2701 of title 10, United States Code.

Section 315 removes the annual reporting requirement on contractor reimbursement for costs of environmental response actions for the top 20 defense contractors.

Section 316 extends the pilot program for the sale of air pollution emission reduction incentives to September 30, 2003 and requires the Secretary of Defense to prepare a report to Congress on the program by March 1, 2003.

Section 317 requires the Secretary of Defense to carry out a program to significantly improve the energy efficiency of Department of Defense facilities through 2010, sets out energy efficiency goals for the program, and requires the Secretary of Defense to submit annual reports to Congress on the Department's progress starting on January 1, 2002.

Section 318 requires the Secretary of Defense to purchase hybrid vehicles, to the extent such vehicles are commercially available and meet the Department of Defense's requirements, for the Department of Defense fleet of light duty trucks that is not already subject to the requirement to purchase alternative fueled vehicles pursuant to section 303 of the Energy Policy Act of 1992.

Section 319 authorizes the Secretary of the Navy to pay \$1 million to reimburse the Environmental Protection Agency, pursuant to a January 2001 agreement, for environmental costs at the Hooper Sands site, South Berwick, Maine.

Section 320 authorizes the Secretary of Defense to conduct mitigation studies in two locations and to work with federal, state, local and private entities to address problems that may be identified. Each study must address the extent, if any, to which the Department of Defense is responsible for any problems identified.

Subtitle C. Commissaries and Nonappropriated Fund Instrumentalities—Section 331 authorizes the Secretary of Defense to grant new members of the Ready Reserve immediate access to commissary stores.

Section 332 requires service secretaries to reimburse the Defense Commissary Agency for a share of the depreciated value of a commissary facility when a military department uses a commissary facility for non-commissary related purposes.

Section 333 authorizes the Secretary of Defense to limit the release to the public of information collected by the use of electronic scanners in commissary stores if the Secretary of Defense determines such limitations are in the best interests of the Department.

Section 334 authorizes the Secretary of Defense to enter into annual contracts for rebates with producers of food products for the exclusive right to provide food in commissary stores as supplemental food for the Women, Infants, and Children Overseas Program.

Section 335 authorizes agencies or instrumentalities operating federal retail stores to pursue losses and administrative costs related to shoplifting, theft detection, and theft prevention as claims of

the United States recoverable from the shoplifter through existing federal debt collection methods.

Subtitle D. Workforce and Depot Issues—Section 341 gives the Secretary of Defense the authority to waive limitations on performance of depot-level maintenance that he may not delegate. Under current law, secretaries of the military departments also have this authority.

Section 342 establishes a four-year pilot program at Centers of Industrial and Technical Excellence in which work performed by non-Department of Defense personnel in a public depot under a public-private partnership is excluded from restrictions on private sector work.

Section 343 enables private sector entities that have contracted with the Government in a working capital-funded activity of the Department of Defense to file a claim if the Government fails to comply with quality, schedule, or cost performance requirements in the contract.

Section 344 changes the deadline for the annual report on commercial and industrial activities report from February 1 to June 30.

Section 345 requires the Secretary of the Army to submit to Congress by March 1 of fiscal years 2002 through 2004 a report describing the use of non-Federal entities to provide services to the Army during the previous fiscal year.

Section 346 requires the Army Workload and Performance System to be developed so its functionality and identity comply with all statutory requirements and that it continues to be the standard Army-wide manpower system.

Subtitle E. Defense Dependents Education—Section 351 authorizes \$30 million for educational assistance to local education agencies where the standard for the minimum level of education within the state could not be maintained because of the large number of military-connected students, and \$1 million for payments to local education agencies to assist in adjusting to reductions in military dependent students resulting from the closure or realignment of military installations.

Section 352 authorizes \$5 million for continuation of the Department of Defense assistance program to local educational agencies that benefit dependents with severe disabilities.

Section 353 provides that home schooled dependents entitled to enroll in a school of the defense dependents' education system may use or receive various benefits of that system, including use of academic resources, access to school libraries, and participation in extracurricular activities, without being required to enroll or register for a minimum number of courses. Such students may be required to meet specified standards relating to eligibility and conduct.

Section 354 requires the Comptroller General to study the adequacy of the pay and other

compensation provided to teachers in the defense dependents' education system.

Subtitle F. Other Matters—Section 361 authorizes the Secretary of Defense to make excess clothing, shoes, sleeping bags, and related nonlethal excess supplies available, without reimbursement, to the Secretary of Veterans' Affairs for distribution to homeless veterans and homeless veterans' programs.

Section 362 authorizes the Secretary of the Navy to order up to an additional 250,000 work stations (in two increments) under the Navy-Marine Corps Intranet contract, subject to the approval of the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense if certain conditions are met.

Section 363 requires the Comptroller General to study the inter-connectivity between the voice, data, and video networks of the National Guard Distributive Training Technology Project and other Department of Defense, federal, state and private networks.

Section 364 reauthorizes through September 30, 2003 a pilot program that allows the Secretary of Defense to use commercial services to improve the collection of Department of Defense claims for aircraft engine warranties.

Section 365 requires the Secretary of Defense to complete the ongoing evaluation of all test programs regarding the transportation of household goods for members of the Armed Forces by March 31, 2002, and to submit a report to Congress on the results.

Section 366 expresses the sense of Congress that the Secretary of Defense, upon the receipt of the certification of the Attorney General, should provide public safety support for the 2002 Winter Olympic Games in Salt Lake City, Utah.

Title IV — Military Personnel Authorizations

Subtitle A. Active Forces—Section 401 authorizes the active duty end strengths for the Armed Forces at the levels requested by the Department of Defense. For comparison purposes the FY2001 end strengths also are set forth:

	<i>FY 2001</i>	<i>FY 2002</i>
Army	480,000	480,000
Navy	372,642	376,000
Marine Corps	172,600	172,600
Air Force	357,000	358,800

Section 402 establishes end strength floors for the active forces at the end strengths contained in the budget request.

Section 403 increases the limitation for all services on the authorized daily average number of enlisted members serving on active duty within an armed force in the pay grade of E-8 from two percent to two-and-one-half percent of the total number of enlisted members of that armed force on active duty on the first day of that fiscal year. Currently, the higher limit applies only to the Army.

Subtitle B. Reserve Forces—Section 411 authorizes end strengths for the Selected Reserve at the levels requested by the Department of Defense. For comparison purposes the FY2001 end strengths also are set forth:

	<i>FY 2001</i>	<i>FY 2002</i>
The Army National Guard of the United States	350,000	350,000
The Army Reserve	205,000	205,000
The Naval Reserve	90,288	87,000
The Marine Corps Reserve	39,624	39,558
The Air National Guard of the United States	106,678	108,400
The Air Force Reserve	73,708	74,700
The Coast Guard Reserve	8,000	8,000

Section 412 authorizes the full-time support end strengths for fiscal year 2002 at the levels requested by the Department of Defense, except for the Army National Guard (for whom Congress authorized an additional 724 members) and the Army Reserve (for whom Congress authorized an additional 298 members). For comparison purposes the FY2001 end strengths also are set forth:

	<i>FY 2001</i>	<i>FY 2002</i>
The Army National Guard of the United States	22,974	23,698
The Army Reserve	13,106	13,406
The Navy Reserve	14,649	14,811
The Marine Corps Reserve	2,261	2,261
The Air National Guard of the United States	11,170	11,591
The Air Force Reserve	1,336	1,437

Section 413 authorizes the minimum level of dual status technician end strengths for fiscal year 2002 at the levels requested by the Department of Defense, except for the Army National Guard (for whom Congress authorized an additional 487 members) Army Reserve (for whom Congress authorized

an additional 250 members). For comparison purposes the FY2001 end strengths also are set forth:

	<i>FY 2001</i>	<i>FY 2002</i>
The Army Reserve	5,921	6,249
The Army National Guard of the United States	23,128	23,615
The Air Force Reserve	9,785	9,818
The Air National Guard of the United States	22,247	22,422

Section 414 establishes the following limits on the numbers of non-dual status technicians as of September 30, 2002 at the levels requested by the Department of Defense, except for the Air Force Reserve (for whom Congress authorized 90 members when the Department recommended none). For comparison purposes the FY2001 end strengths also are set forth:

	<i>FY 2001</i>	<i>FY 2002</i>
The Army Reserve	1,195	1,095
The Army National Guard of the United States	600	1,600
The Air Force Reserve	10	90
The Air National Guard of the United States	326	350

Section 415 authorizes new grade tables for all reserve components of the military departments to limit the number of officers and senior enlisted members serving on active duty or full-time National Guard Duty in the pay grades of O-6, O-5, O-4, E-9, and E-8.

Subtitle C. Other Matters Relating to Personnel Strengths—Section 421 increases from one percent to two percent the percentage by which the Secretary of Defense may increase the active duty end strength of a military service above the authorized end strengths for that service. Section 421 also authorizes the President to waive any statutory end strength at the end of any fiscal year during which there is in effect a war or national emergency.

Section 422 permits members of the reserve components on active duty and members on full-time National Guard duty to prepare for and perform funeral honors functions without counting against the active duty end strengths of the armed forces.

Subtitle D. Authorization of Appropriations—Section 431 authorizes \$82.31 billion for military personnel.

Title V — Military Personnel Policy

Subtitle A. Officer Personnel Policy—Section 501 repeals the limit on the number of

officers on active duty in the grades of general and admiral. The Conference Report also directs the Secretary of Defense, using current data and requirements, to conduct a comprehensive review of the existing statutory reserve and active general and flag officer authorizations, and report the results of the review to Congress no later than six months after the date of enactment of this Act, together with any recommendations for revisions to those authorizations.

Section 502 authorizes the Secretary of Defense to delegate to the Under Secretary of Defense for Personnel and Readiness, or the Deputy Under Secretary of Defense for Personnel and Readiness, the authority to certify to the President and Congress that certain officers have served satisfactorily in the grade of general, admiral, lieutenant general, or vice admiral before authorizing retirement in that grade. Section 502 also requires the Secretary of Defense to act personally on cases where there is potentially adverse information that has not previously been reported to the Senate in connection with a previous appointment.

Section 503 provides that service members or former service members challenging the results of selection boards or promotion boards are not entitled to relief in a judicial proceeding unless the matter was first considered by a special board or a special selection board, or the secretary concerned denied such consideration.

Section 504 reduces the minimum time-in-grade requirement for the promotion of first lieutenants and lieutenants (junior grade) from two years to 18 months for officers with 18 months time-in-grade before October 1, 2005.

Section 505 authorizes the promotion of officers on the active-duty list and on the reserve active-status list to captain in the Army, Air Force, or Marine Corps, or to lieutenant in the Navy, without selection board action when the secretary concerned determines that all fully qualified officers eligible for consideration for promotion are needed in the next higher grade to accomplish mission objectives.

Section 506 authorizes the service secretaries to adjust the date of rank of an officer in grade 0-6 and below if the officer's promotion is delayed because of unusual circumstances causing an unintended delay in the processing or approval of a report of a selection board or promotion list.

Section 507 authorizes the secretaries of the military departments to extend for an additional 30 days the deferment of mandatory retirement or separation for medical reasons to provide a member additional time to prepare for retirement or separation.

Section 508 authorizes the secretaries of the military departments to extend for an additional 90 days the deferment of mandatory retirement or separation due to the implementation of stop-loss authority to provide the military member additional time to prepare for retirement or separation.

Section 509 excludes retired members recalled to active duty for service as defense or service attaches from the limitations on the number of retired members who can be recalled to active duty and from the time limit on the period of a recall to active duty.

Section 510 permits a Navy limited duty officer who holds at least the rank of lieutenant commander to be detailed to serve in the rank of captain while holding the position of Officer in Charge of the United States Navy Band.

Subtitle B. Reserve Component Personnel Policy—Section 511 requires members recalled to active duty for three years or less to be placed on the active-duty list unless the service secretary specifies in the service member's orders that the member will be retained on the reserve active-status list.

Section 512 reauthorizes the Secretary of the Army, on a case-by-case basis, to waive the requirement for reserve officers commissioned through the Army Officer Candidate School to have been awarded a baccalaureate degree before being promoted to the grade of captain. Section 512 also grants this authority to the Secretary of the Navy for reserve officers whose original appointment as a reserve officer in the Marine Corps was through the Marine Corps meritorious commissioning program.

Section 513 removes the requirement that reservists must be performing inactive-duty for training at a site that is outside normal commuting distance before being eligible for disability benefits and programs if they incur or aggravate an injury, illness, or disease in the line of duty when remaining overnight at training locations before or between inactive-duty training periods.

Section 514 authorizes retirement-eligible reserve officers with non-service-connected physical disabilities incurred in the line of duty that disqualify the officer from continued service to be retired in the highest grade held by the officer for six months, regardless of other time-in-grade requirements.

Section 515 amends the definition of deployment for reservists to include performance of duty that makes it impossible or infeasible to spend off-duty time in the housing that the member usually occupies during off-duty time when on garrison duty.

Section 516 eliminates the requirement that members of the Individual Ready Reserve receive a physical examination every five years and instead requiring a physical examination as necessary to determine the member's physical fitness for military duty or for promotion, attendance at an armed forces' school, or other action related to career progression.

Section 517 authorizes the service secretaries to transfer to the Retired Reserve officers who are required to be removed from active status because of failure of selection for promotion, length of service or age, and warrant officers and enlisted members who are required to be discharged or

removed from active status because of years of service or age, unless the member requests not to be transferred to the Retired Reserve.

Section 518 corrects an impairment to authorized travel with allowances for reservists performing annual training duty.

Section 519 authorizes federal agencies to pay both the employee and government contributions to the Federal Employee Health Benefit Program for federal employees who are members of a reserve component and are called to active duty for more than 30 days in support of a contingency operation.

Subtitle C. Joint Specialty Officers and Joint Professional Military Education—

Section 521 provides for the automatic nomination of any officer who, before or after the enactment of this provision, meets the statutory education and service requirements for nomination as a joint specialty officer.

Section 522 prescribes standards and requirements for the Secretary of Defense to award joint duty credit to officers serving in temporary joint task force headquarters that are not engaged in combat or combat-related operations.

Section 523 authorizes the Secretary of Defense, after a case-by-case review, to award joint service credit to an officer who served in the headquarters of a temporary joint task force employed by the United States during one or more of nine specific joint operations that began during the period August 1, 1992, and June 11, 1999.

Section 524 changes some annual reporting requirements to reflect the bill's recommended amendments to the joint officer management system.

Section 525 requires that after September 30, 2007, officers promoted to brigadier general or rear admiral (lower half) must be selected as a joint specialty officer prior to their promotion unless the requirement is waived.

Section 526 requires the Secretary of Defense to commission an independent study of the joint office management and joint professional military education systems

Section 527 designates the Secretary of Defense as the executive agent for funding professional development education operations of all components of the National Defense University, including the Joint Forces Staff College.

Section 528 authorizes the Secretary of Defense to permit up to 10 private sector employees of organizations relevant to national security to receive instruction at the

National Defense University.

Section 529 requires the Secretary of Defense to continue the concept validation test of Reserve component joint professional military education and to begin a pilot program of the concept if the results of the test warrant such a program.

Subtitle D. Military Education and Training—Section 531 authorizes the Defense Language Institute Foreign Language Center to award an associate of arts degree in a foreign language.

Section 532 authorizes the Marine Corps University to award a master of strategic studies degree.

Section 533 increases the number of foreign students who can attend each service academy from 40 to 60.

Section 534 increases the maximum allowable age for appointment as a cadet or midshipman in Senior Reserve Officers' Training Corps Scholarship programs.

Section 535 authorizes active duty enlisted members to participate in the Senior Reserve Officers' Training Corps program.

Section 536 authorizes the Secretary of the Army to permit military junior college cadets who sign future Guaranteed Reserve Forces Duty contracts to satisfy their service obligation through either active duty service or reserve service in a troop program unit.

Section 537 repeals the limitation on the number of Junior Reserve Officers Training Corps units.*

Section 538 removes the restriction on nurse officer candidates receiving financial assistance while training to be nurses at institutions with Reserve Officer Training Corps programs.

Section 539 expands the stipend program for reserve health professionals by authorizing medical and dental school students to receive stipends and by authorizing continuing compensation for medical and dental school graduates participating in residency programs involving critical wartime specialties.

Section 540 authorizes a housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy.

Subtitle E. Recruiting and Accession Programs—Section 541 requires the Secretary of the Army to carry out an 18-month enlistment pilot program to increase the participation of prior

service persons in the Selected Reserve and increase the pool of participants in the Individual Ready Reserve.

Section 542 improves benefits under the Army College First program by extending the period of delayed entry and increasing the monthly allowance.

Section 543 extends certain Army recruiting pilot programs and, for the pilot program involving contract recruiting initiatives, require replacement of Army Reserve recruiters and remove the requirement that contract recruiters operate under the military recruiter chain of command.

Section 544 requires local educational agencies receiving assistance under the Elementary and Secondary Education Act of 1965 to provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers and, upon request by military recruiters, access to secondary school student names, addresses, and telephone listings unless the parent or student has submitted a request that this information not be released without prior written parental consent.

Section 545 makes permanent the authority for the secretaries of the military departments to conduct social functions involving recruit candidates and recruits awaiting active duty entry, and other persons known to influence the career decisions of recruitment-age youth.

Section 546 requires the Secretary of Defense to conduct a review of the health and disability benefit programs available to recruits and officer candidates engaged in training, education, or other types of programs while not yet on active duty and to cadets and midshipmen attending the service academies.

Subtitle F. Decorations, Awards, and Posthumous Commissions—Section 551
authorizes the award of the Medal of Honor to Humbert R. Versace, Jon E. Swanson, and Ben L. Salamon.

Section 552 requires the service secretaries to review the service records of certain Jewish and Hispanic veterans from World War II and later periods to determine if the award of the Medal of Honor is appropriate and waives the statutory time limitations for the award where the secretaries determine that service records support the award of Medals of Honor.

Section 553 authorizes the issuance of duplicate medals of honor and the replacement of stolen military decorations.

Section 554 entitles Robert R. Ingram to retroactive payment of the Medal of Honor special pension.

Section 555 waives the statutory time limits for award of the Silver Star to Wayne T. Alderson and the Distinguished Flying Cross for certain individuals recommended by the Secretary of the Navy.

Section 556 expresses the sense of the Congress that the Secretary of Defense should consider authorizing the issuance of a Korea Defense Service Medal, a Cold War Service Medal, and the award of the Vietnam Service Medal to certain persons.

Section 557 commends the decision by the Department of Defense to create a new award, a medal for the defense of freedom, to be awarded to Department of Defense civilians who are killed or wounded as a result of hostile action.

Section 558 authorizes the President to posthumously appoint Ella E. Gibson to the grade of captain in the Chaplain Corps of the Army.

Subtitle G. Funeral Honors Duty—Sections 561 through 564 authorize various measures to encourage military retirees, reserve and National Guard members, federal employees who are members of the reserve components, and civilians to participate in funeral honor details.

Subtitle H. Military Spouses and Family Members—Section 571 requires the Secretary of Defense to examine existing Department of Defense and other federal, state, and non-governmental programs with the objective of improving retention of military personnel by increasing the employability of military spouses and helping those spouses gain access to financial and other assistance for job training and education.

Section 572 authorizes the Secretary of Defense to add family members of retirees and surviving spouses to those who may be surveyed to determine the effectiveness of federal programs relating to military families and the need for new programs.

Section 573 requires the Secretary of Defense to maintain a separate file available for review by next-of-kin that would provide notice of the existence of classified information which may pertain to one or more missing persons.

Section 574 authorizes the Secretary of Defense to provide transportation for the next-of-kin of persons who are unaccounted for from the Korean War, the Cold War, the Vietnam War, and the Persian Gulf War to and from an annual meeting concerning ongoing efforts to resolve the fate of their missing family member.

Section 575 extends the authorization of the Defense Task Force on Domestic Violence from October 5, 2002, to April 24, 2003 and authorizes reimbursement to be paid to task force members who are not Department of Defense or federal civilian employees.

Subtitle I. Military Justice and Legal Assistance Matters—Section 581 amends the Code of Military Justice to set the blood alcohol concentration necessary to establish drunken operation of a motor vehicle, aircraft, or vessel as the limit under the law of the state in which the conduct occurred.

Section 582 increases the minimum number of required court-martial members from 5 to 12 in cases in which the accused may be sentenced to death.

Section 583 authorizes the service secretaries to accept voluntary legal services.

Subtitle J. Other Matters—Section 591 changes the congressional notification period required of the Secretary of Defense before implementing revised policies concerning the assignment of women to ground combat units or positions from 90 days of continuous session of Congress to 30 days of continuous session of Congress.

Section 592 requires that high-deployment per diem be paid from operations and maintenance accounts.

Section 593 authorizes disability severance pay to be computed based on the grade to which a member would be promoted regardless of the purpose of the physical examination that identifies the disqualifying physical disability.

Section 594 authorizes advance payment of vehicle storage costs in commercial facilities and payment for shipping privately-owned vehicles between permanent duty stations in the continental United States when it is more advantageous and cost-effective for the government.

Section 595 repeals the requirement for the final report by the Comptroller General of the United States on the Total Army Analysis process.

Section 596 eliminates the \$62.5 million statutory limit on Department of Defense spending for the National Guard Youth Challenge Program, and provides that the Secretary of Defense shall remain the executive agent to carry out the National Guard Challenge and STARBASE programs regardless of the source of funds for the programs or any transfer of jurisdiction over the programs within the Executive Branch.

Section 597 requires the Secretary of Defense to submit, within six months of the enactment of this Act, a report to the Committees on Armed Services of the Senate and the House of Representatives on the legislative and policy changes required to implement the recommendation of the Defense Science Board that all officers be given initial regular commissions.

Section 598 expresses the sense of Congress that the Secretary of Defense, when deciding on

the next officer to be recommended for appointment as Commander, U.S. Transportation Command, should not rely upon one service which has traditionally provided officers to fill that position, but should select for such recommendation the best qualified officer of the Army, Navy, Air Force, or Marine Corps.

Title VI — Compensation and Other Personnel Benefits

Subtitle A. Pay and Allowances—Section 601 provides an average 6.9 percent pay increase for military personnel for fiscal year 2002, with higher increases for enlisted personnel than for most officers. This increase, the largest increase since 1982, is equal to the Administration's request. More specifically, this section provides a 6 percent pay increase for enlisted personnel, a 5 percent pay increase for most officers, and up to 10 percent for certain specialties. In addition, this section provides additional increases for mid-grade and senior non-commissioned officers and mid-grade officers. This pay increase is expected to reduce the pay gap between military and private sector from 10.4 percent to 7.5 percent.

Section 604 establishes \$233 as the monthly rate of basic allowance for subsistence and clarifies that only members with dependents are entitled to payment of the supplemental subsistence allowance.

Section 605 requires the Secretaries of the military departments to pay members of the uniformed services in pay grades below E 4 (with less than 4 years of service) a temporary housing allowance while on travel or leave status between permanent duty stations.

Section 606 clarifies that an additional allowance of \$200 for uniforms may be paid to an officer so long as any previous allowance received did not exceed \$400.

Section 607 requires the Secretaries of the military departments to pay family separation allowance to members of the uniformed services who elect to serve unaccompanied tours of duty because the movement of dependents of the member to the permanent duty station is denied for certified medical reasons.

Subtitle B. Bonuses and Special and Incentive Pays—Section 611 extends, until December 31, 2002, the authority to pay the special pay for wartime health care specialists in critically short supply in the Selected Reserve, the Selected Reserve re-enlistment bonus, the Selected Reserve enlistment bonus, the special pay for enlisted members assigned to certain high priority units in the Selected Reserve, the Selected Reserve affiliation bonus, the Ready Reserve enlistment and re-enlistment bonus, and the prior service enlistment bonus, and would extend, until January 1, 2003, the authority for the repayment of education loans for certain health professionals who serve in the Selected Reserve.

Section 612 extends the authority for the nurse officer candidate accession program, the accession bonus for registered nurses, and the incentive special pay for nurse anesthetists until December 31, 2002.

Section 613 extends the authority for special pay for nuclear-qualified officers extending their period of active service, the nuclear career accession bonus, and the nuclear career annual incentive bonus until December 31, 2002.

Section 614 extends the authority to pay the aviation officer retention bonus, the reenlistment bonus for active members, the bonus for enlistment for two or more years, and the retention bonus for members with critical skills.

Section 615 authorizes members of the uniformed services to be paid hazardous duty incentive pay for duties involving regular participation as a member of a team conducting visit, board, search, and seizure aboard vessels in support of maritime interdiction operations.

Section 616 extends the authority for payment of aviation career pay and surface warfare continuation pay to eligible officers who, when within one year of completing a service commitment, sign a written agreement to remain on active duty.

Section 617 authorizes the Secretary of the Navy to prescribe the amount of submarine duty incentive pay by grade and years of service with a maximum of \$1,000 per month.

Section 618 extends the authority to pay accession bonuses to dental officers until December 31, 2002.

Section 619 modifies existing provisions to authorize payment of a bonus to individuals who possess a skill that is designated as critically short to meet wartime requirements and who agree to enlist, reenlist or voluntarily extend an enlistment in the Individual Ready Reserve.

Section 620 authorizes members of the uniformed services to elect to be paid the 15-year career status bonus in either a lump sum or in annual installments.

Section 621 authorizes the service secretaries to pay an accession bonus of up to \$60,000 to officer candidates who enter into written service agreements to accept commissions as officers.

Section 622 authorizes the Secretary of Defense to purchase U.S. savings bonds with a face value of up to \$30,000 for military personnel who have completed specified periods of active duty and enter into a commitment to perform at least six additional years of active duty service in a specialty designated as critical by the Secretary.

Section 623 authorizes the service secretaries to permit service members involuntarily retained on active duty under stop loss authority to continue to receive special and incentive pays at unreduced rates.

Section 624 authorizes the Secretary of Defense to provide for retroactive payment of imminent danger pay to service members who served in specified areas in connection with Operation Enduring Freedom for duty performed between September 19, 2001 and October 31, 2001.

Subtitle C. Travel and Transportation Allowances—Section 631 equates per diem rates for military members for travel performed in connection with a change of permanent station and per diem rates (rates established in the Federal travel regulation) for official travel within the continental United States of federal civilian employees and their dependents.

Section 632 authorizes payment of subsistence expenses to officers making their first permanent change of station and increases from \$110 to \$180 per day the maximum amount that can be paid to members of the uniformed services as reimbursement for temporary lodging and subsistence expenses incurred in the United States as a result of a permanent change of station.

Section 633 increases the amount of reimbursement for pet quarantine fees from \$275 to \$675 per change of station.

Section 634 increases the maximum weight allowance for shipment of household effects for enlisted military members in grades E-4 and below.

Section 635 authorizes payment of a dislocation allowance to a member when the member's dependents make an authorized move in connection with the member's move to the first duty station. It also authorizes payment of a single dislocation allowance to married service members, where both husband and wife are members without dependents and both move to a new duty station and occupy government family quarters.

Section 636 authorizes the service secretaries to pay a \$500 partial dislocation allowance to members of the uniformed services who are ordered to occupy or vacate government family housing to permit privatization or renovation, or for another reason unrelated to changes in permanent station.

Section 637 authorizes the service secretaries to designate the locations to which members of the uniformed services may travel at government expense while on leave between consecutive overseas tours.

Section 638 authorizes allowances for family members and others to attend burial ceremonies of deceased members of the uniformed forces who die while on active duty or inactive duty and makes this benefit available for surviving families of service members who died during the Vietnam era and

whose remains are newly discovered and returned.

Section 639 extends the authority to pay funded student travel to certain dependents of members who are stationed outside the continental United States.

Subtitle D. Retirement and Survivor Benefit Matters—Section 641 authorizes members of the uniformed services who are qualified for retirement to receive Department of Veterans Affairs disability compensation without a reduction in retired pay if the President proposes, and the Congress enacts, legislation that would offset the attendant *paygo* costs. The provision also authorizes payment of special compensation for retirees with service-connected disabilities rated at 60 percent in fiscal year 2002. It increases the amount of special compensation for retirees with disabilities rated at 80 percent or higher in fiscal year 2003, and increases the amount of special compensation for retirees with disabilities rated at 70 percent or higher in fiscal year 2005.

Section 642 authorizes Survivor Benefit Plan benefits for surviving spouses of service members who are not eligible for retirement and who die in the line of duty while on active duty

Subtitle E. Other Matters—Section 651 authorizes payment for accrued leave in excess of the current limit of 60 days to certain members of the reserve components who are serving on active duty over 60 days, but less than 365 days.

Section 652 authorizes the Secretary of Defense to provide assistance to families of members of the armed forces serving on active duty during fiscal year 2002 in order to ensure that the children of such families obtain needed child care, education, and other youth services.

Section 653 authorizes transitional benefits for the dependents of commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration separated for dependent abuse.

Section 654 authorizes the service secretaries to permit certain service members with critical military skills to transfer up to 18 months of unused basic Montgomery GI Bill benefits to family members.

Title VII — Health Care Provisions

Subtitle A. TRICARE Program Improvements—Section 701 directs the Secretary of Defense to establish sub-acute, extended, custodial, and domiciliary care benefits under the TRICARE program.

Section 702 covers prosthetics and hearing aids as authorized medical care for certain military dependents.

Section 703 expands the types of durable medical equipment that can be provided to military dependents.

Section 704 authorizes rehabilitative therapy for military dependents to improve, restore, or maintain function, or to minimize or prevent deterioration of function.

Section 706 provides for the reimbursement of travel expenses incurred by a parent, guardian, or family member who accompanies a covered beneficiary who is to receive specialty care at a facility more than 100 miles from the primary care facility.

Section 707 provides for the adoption of Medicare's prospective payments rates for nursing home care, outpatient services, and durable medical equipment.

Section 708 provides for the improved administration of the TRICARE program, including the use of the best contracting practices to improve TRICARE contracts.

Subtitle B. Senior Health Care—Section 711 authorizes all uniformed services to participate in TRICARE for Life. In addition, this section clarifies that (1) funding for the accrual fund must come from funds available for the health care programs of the participating uniformed services and (2) Military Treatment Facilities may receive payments from the accrual fund.

Subtitle C. Studies and Reports.—Sections 721 through 724 provide for various studies of the Department of Defense health care system, including studies on health care coverage for Reserve members, services provided to women, and screening and examination requirements

Subtitle D. Other Matters—Section 731 prohibits the Secretary of Defense from implementing a policy of forced choice enrollment by military retirees who are eligible for care in the health care facilities and programs of the Department of Defense.

Section 732 requires the Secretary of Defense to charge civilians who are not covered TRICARE beneficiaries or their insurers fees representing the costs of trauma and other medical care provided to those individuals.

Section 733 authorizes the Secretary of Defense, in order to advance research into the treatment of combat casualties, to waive the prohibition against the use of human subjects in research, if the research directly benefits the subject and complies with all other applicable laws and regulations.

Section 734 authorizes the Secretary of Defense and the Secretary of Veterans Affairs to carry out a pilot program under which the Secretary of Veterans Affairs would conduct, on a reimbursable basis, physical examinations of members separating from the uniformed services.

Section 735 authorizes the Secretary of Defense to waive the prohibition against requiring statements of nonavailability for authorized health care services, other than mental health services, if certain conditions are met. The Secretary of Defense would be precluded from waiving the prohibition against requiring nonavailability statements for maternity care.

Section 736 makes permanent the authority for transitional health care benefits for a member who is involuntarily separated from active duty, a member of reserve components who is separated from active duty of more than 30 days in support of a contingency operation, a member who is separated from active duty when involuntarily retained on active duty, and a member who is separated from active duty and voluntarily agrees to remain on active duty for less than one year in support of a contingency operation.

Section 737 extends, until December 31, 2003, the demonstration program to improve health care delivery in Department of Defense health care systems.

Section 738 authorizes the Secretary of Defense and the Secretary of Veterans Affairs to carry out a pilot program of graduate medical education and training for military physicians and physician employees of the Department of Defense and Department of Veterans Affairs in their respective medical treatment facilities.

Title VIII — Acquisition Policy, Acquisition Management, and Related Matters

Subtitle A. Procurement Management and Administration—Section 801 includes the procurement of services as a responsibility of the Under Secretary of Defense for Acquisition, Technology, and Logistics. In addition, this section directs the Secretary of Defense to establish a management structure for purchases of services that is comparable to the management structure for the procurement of products, as well as establish a data collection system to provide management information with regard to each purchase of services that is in excess of the simplified acquisition threshold.

Section 802 prescribes the objectives and spending reductions to be achieved through the use of improved management practices for procurement of services, including performance-based services contracting, competition for task orders under services contracts, and program review, spending analyses, and other best practices commonly used in the commercial sector.

Section 803 requires the Secretary of Defense to promulgate regulations requiring competition in the purchase of services by the Department of Defense pursuant to multiple award contracts. This section raises the threshold for the competition requirement to \$100,000. Pursuant to this section, notice could be provided to fewer than all contractors under the General Services Administration schedules if (1) notice is provided to as many contractors as practicable, and (2) offers are received from at least three qualified contractors, or a contracting officer of the Department of Defense

determines in writing that he or she was unable to identify additional qualified contractors despite making a reasonable effort to do so.

Subtitle B. Use of Preferred Sources—Section 811 authorizes the Secretary of Defense to determine whether Federal Prison Industries can best meet the Department of Defense's needs in terms of price, quality, and time of delivery. If the Secretary determines that the Federal Prison Industries product is not the best available in terms of price, quality, and time of delivery, the section directs the Secretary to purchase the product on a competitive basis.

Subtitle C. Amendments to General Contracting Authorities, Procedures and Related Matters—Section 822 provides for follow-on production contracts for a limited number of items developed pursuant to transactions (other than contracts, grants, or cooperative agreements) on a sole-source basis.

Section 823 extends, for one year, the program applying simplified procedures to certain commercial items.

Section 824 amends the qualification requirements for Department of Defense contracting officers, contract specialists, and military personnel with equivalent specialties; clarifies that the new requirements do not apply to current federal employees in contracting positions; authorizes the Secretary to establish a program to provide developmental opportunities for individuals who do not meet the new qualification requirements; and authorizes the Secretary of Defense to establish a contingency contracting force and to establish the qualifications required for that force.

Subtitle D. Other Matters—Section 831 directs the head of each executive agency that enters into contracts with a total value in excess of \$500,000,000 in a fiscal year to conduct a program to recover erroneously made payments. This section provides for the disposition of recovered funds, including the reimbursement of actual expense incurred by the agency.

Section 832 codifies elements of section 9005 of the Department of Defense Appropriations Act, 1993 (Public Law 102-396), commonly known as the "Berry Amendment," which prohibits the use of funds appropriated by the Department of Defense for the procurement of a certain item unless the item is grown, reprocessed, reused, or produced in the United States.

Section 833 authorizes the Secretary of State, upon the request of the Secretary of Defense or the head of any other department or agency of the United States Government, to enter into personal service contracts with individuals to perform services in support of the Department of Defense or such other department or agency.

Section 834 requires the Secretary of Defense to ensure, to the maximum extent practicable, that munitions are resistant to unplanned stimuli.

Section 835 authorizes the Secretary of Defense to purchase ball and roller bearings from other than domestic sources without obtaining a waiver, provided that no such purchase exceeds the micro-purchase threshold of \$2,500, and that the cumulative total of such purchases does not exceed \$200,000 in any fiscal year.

Section 836 provides emergency procurement authority to facilitate the defense against terrorism and biological or chemical attack, specifically by (1) increasing the micro-purchase threshold to \$15,000 for purchases of property and services, (2) increasing the simplified acquisition threshold to \$250,000 (inside the United States) and to \$500,000 (outside the United States), and (3) treating as commercial items any biotechnology goods and services purchased to facilitate the defense against terrorism or biological or chemical attack.

Title IX—Department of Defense Organization and Management

Subtitle A. Duties and Functions of Department of Defense Officers—Section 901 establishes in statute a Deputy Under Secretary of Defense for Personnel and Readiness to assist the Under Secretary of Defense for Personnel and Readiness. The incumbent would serve at Executive Level IV and would be confirmed by the Senate. This provision also reduces from nine to eight the number of Assistant Secretaries of Defense.

Section 902 is a sense of Congress relating to the new Office of Force Transformation. It notes that the Secretary should consider providing funding adequate for sponsoring selective prototyping efforts, war games, studies and analysis, and for appropriate staffing, as recommended by the director of such an Office of Transformation. The provision states that the purpose of transformation is to maintain or improve U.S. military presence in the face of potential disproportionate discontinuous changes in the strategic environment. The provision recommends specific duties for the director of the Office.

Section 903 is a reporting requirement on the Navy's plans and justification for the reorganization of engineering and technical policy authority within the Naval Sea Systems Command. The provision limits the authority of the Secretary of the Navy to approve any reorganization in engineering and technical authority in that command until 45 days after the submission of the report.

Subtitle B. Space Activities.—Section 911 enacts a new chapter 135 in title 10 entitle, "Space Programs." The chapter has one section which would require the Secretary of Defense to take appropriate actions to ensure that space development and acquisition programs are carried out through joint program offices and, to the maximum extent practicable, ensure that officers of the Army, Navy, Marine Corps, and Air Force are assigned to and hold leadership positions in such joint program offices. This section would also direct the Secretary to designate positions in the Office of the National Security Space Architect as joint duty assignments as appropriate.

Section 912 requires the Secretary of the Air Force to establish and implement policies and procedures to develop a space career field.

Section 913 requires a report on space activities. Basically it would require reporting on steps taken to improve management, organization and oversight of space programs, space activities, funding and personnel resources.

Section 914 requires the Comptroller General to assess the Secretary of Defense's implementations of the Space Commission recommendations applicable to the Department of Defense and to report to the armed services committees in February of 2002 and 2003.

Section 915 is a sense of Congress that officers appointed as the Commander of the United States Space Command should be selected from all the services not just the Air Force.

Subtitle C. Reports.—Section 921 is a provision to reduce the reporting requirements of the Chairman of the Joint Chiefs. It requires the roles and mission report to be made during the quadrennial review rather than each three years in a separate document.

Section 922 relates to the annual report on joint warfighting experimentation. It would clarify the annual joint warfighting report and require the inclusion of a specific assessment of whether there is a need for a major force program, or some other resource mechanism, for funding joint experimentation and for funding the rapid development and acquisition of uniquely joint warfighting technologies.

Section 923 repeals one of three required reports on the activities of the joint requirements oversight council.

Section 924 revises the joint Defense and Central Intelligence report on the alternatives for the establishment of a national collaborative information analysis capability. The report would be required to be prepared in consultation with the Secretary of the Treasury, the Secretary of Commerce, the Attorney General, the Secretary of State, the Director of the FBI, and the Administrator of the Drug Enforcement Administration.

Subtitle D. Other Matters.—Sections 931 and 932 are provisions recommended by the Department of Defense relating to the name of the Air Mobility Command and current director of the Navy's warfare requirements and programs office.

Title X—General Provisions

Subtitle A. Financial Matters.—Section 1001 authorizes the Secretary of Defense to transfer funds among the divisions of funds authorized for fiscal year 2002. This is limited to \$2,000,000,000.

Section 1002 incorporates a classified annex into law.

Section 1003 authorizes the supplemental appropriations enacted in the Supplemental Appropriations Act, 2001 which provided funding for Department of Defense program including increased health care costs, operating expenses, and utility costs.

Section 1004 authorizes the U.S. contribution to NATO common-funded budgets for fiscal year 2002, including the use of unexpended balances. The resolution of ratification for the Protocol to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary and the Czech Republic contained a provision (section 3(2)(c)(ii)) requiring a specific authorization for U.S. payments to the common-funded budgets of NATO for each fiscal year, beginning in fiscal year 1989, that payments exceed the fiscal year 1998 total.

Section 1005 limits the amount of funds authorized to be appropriated for incremental costs of the armed forces for peacekeeping operations in Bosnia and Kosovo in fiscal year 2002 to the amounts contained in the budget request: \$1,315.6 million for Bosnia and \$1,528.6 million for Kosovo. The provision would authorize the President to waive the limitation upon a written certification that the waiver is necessary in the national security interests and that the exercise of the waiver will not adversely affect readiness of our Armed Forces and a report setting forth the reasons for the waiver. The provision also would require a supplemental appropriations request for the additional fiscal year 2002 costs associated with U.S. military participation in or support for peacekeeping operations in Bosnia and Kosovo.

Section 1006 establishes a ceiling for authorization for the National Foreign Intelligence Program (NFIP) equal to the amounts requested by the President in the budget request for fiscal year 2002. The provision would allow this ceiling to be increased by any amounts provided for the NFIP in the Emergency Terrorism Response Supplemental Appropriations Act, 2001, and any fiscal year 2002 supplemental appropriations bills.

Section 1007 clarifies the applicability of interest penalties for late payment of interim payments due under contracts for services. This is a technical amendment to a provision enacted in last years authorization act (Section 1010(d) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001).

Section 1008 requires a report on Department of Defense financial statements and their reliability.

Section 1009 requires the Secretary of Defense to establish an oversight council and a management process for implementing changes identified in the congressionally-mandated financial management improvement plans.

Section 1010 authorizes \$1.3 billion for either research, development, test and evaluation of ballistic missile defense programs of the Ballistic Missile Defense Organization or activities for combating terrorism, whichever the President determines to be in the best national security interest of the United States. The amendment authorizes the President to allocate funds among the stated programs, but requires the Secretary of Defense to report to the congressional defense committees on such an allocation pursuant to the President's determination.

Subtitle B. Naval Vessels and Shipyards.—Section 1011 authorizes the transfer of certain naval vessels to various foreign nations; on a grant basis, one Oliver Hazard Perry-class frigate to Poland and six Knox-class frigates to Turkey, and on a sale basis, four Kidd-class destroyers to Taiwan and two Oliver Hazard Perry-class frigates to Turkey.

Section 1012 authorizes the Secretary of the Navy, at his discretion, to sell the Glomar Explorer (AG-193) to the current lessee.

Section 1013 would authorize the Navy to renew the five-year leases for certain Navy research vessels without recompeting them, as long as the initial lease was awarded competitively.

Section 1014 increases the administrative authority of the Navy to settle admiralty claims both in favor of the Navy and against it from \$1,000,000 to \$15,000,000, and it increases the delegation authority for such settlements from \$100,000 to \$1,000,000.

Subtitle C. Counter-Drug Activities—Section 1021 extends the authority of the Department of Defense to support counter-drug activities to 2006.

Section 1022 extends for an additional year the requirement in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that the Secretary of Defense report to the congressional defense committees' details on the expenditure of funds in direct or indirect support of the counter-drug activities of foreign governments.

Section 1023 authorizes the Secretary of Defense to transfer all Tracker aircraft in the inventory of the Department of Defense to the administrative jurisdiction and operational control of another federal agency. The provision also provides that after September 30, 2002, any Tracker aircraft remaining in the inventory of the Department of Defense may not be used by the armed forces for counter-drug purposes.

Section 1024 requires a report on the status of the Tethered Aerostat Radar System and limits funding for such program should the report not be made in accordance with the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (section 1025 which required the report by May 1, 2001).

Subtitle D. Strategic Forces.—Section 1031 repeals the limitation on the retirement or dismantlement of strategic nuclear delivery systems.

Section 1032 requires the submission by the Secretary of the Air Force of a report on the Air Force bomber force structure. The provision limits funding for retiring or dismantling 93 B-1B Lancer bombers until 15 days after such a report is made.

Section 1033 amends section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 by adding a new element to the nuclear posture review. The new element would direct the Secretary of Defense to look at the possibility of deactivating or dealerting nuclear warheads or delivery systems.

Section 1034 requires the Secretary of Defense to submit a report, with submission of the fiscal year 2003 budget request, that would provide information on the Secretary's preferred option for furnishing helicopter support for the Air Force intercontinental ballistic missile wings.

Subtitle E. Other Department of Defense Provisions.—Section 1041 requires the Secretary of Defense to submit to the President the Secretary's recommendation as to whether there should be established within the Executive Branch a defense impact review process and to submit a copy of that recommendation to Congress. For the purposes of this section, a defense impact review process would be a process that provides for the review of certain proposed actions of other federal agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense.

Section 1042 authorizes reports to Congress to be submitted in electronic format.

Section 1043 relates to Department of Defense gift authorities. It makes conforming and technical amendments with regard to the gift authorities, in particular of the Secretary of the Navy.

Section 1044 requires the Secretary of Defense to carry out an accelerated program of research, development and production of medical countermeasures to defend against the highest threat biological warfare agents. The amendment would also require a study by the National Research Council and the Institute of Medicine of the review and approval process for such medical countermeasures. Finally, the amendment would provide discretion for the Defense Department to use up to \$10.0 million of available research and development funds for the accelerated program.

Section 1045 requires an assessment of and report on the requirements of the Department of Defense regarding chemical and biological protective equipment for military personnel and civilian employees of the Department.

Section 1046 allows the Secretary of the Navy to sell, on a reimbursable basis, goods and

services from Naval Magazine, Indian Island, that are not available from other commercial sources.

Section 1047 requires the Secretary of the Navy to submit a report to the committees on armed forces setting forth the procedures and guidelines of the Navy for the embarkation of civilian guests on naval vessels for public affairs purposes.

Section 1048 enacts technical and clarifying amendments to title 10 and related statutes.

Section 1049 would give the Secretary of the Navy the authority to close the Vieques Naval Training Range if the Secretary certifies to the President and Congress that an alternative training facility, or facilities, that provide equivalent or superior training exist and are available. The Secretary's certification would take into account the views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps. If the Secretary terminates training operations on Vieques, the lands on the eastern end of the island would be transferred to the jurisdiction of the Secretary of the Interior.

Subtitle F. Other Matters.—Section 1061 increases the authorization of appropriations for federal grants to state or local firefighters in section 33 of the Federal Fire Prevention and Control Act of 1974, as added by title XVII of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, from \$300.0 million to \$900.0 million for fiscal years 2002, through 2004, clarify that grants under the program would be available for training and equipment to respond to terrorism or the use of weapons of mass destruction, and specify that up to three percent of the funds authorized for these grants could be used for administration of the grant program by the Federal Emergency Management Agency.

Section 1062 provides that the Commission on the Future of the United States Aerospace Industry has a full year to carry out its work and to allow the commission 60 rather than 30 days to archive documents and complete other activities after the submission of its final report.

Section 1063 amends the Radiation Exposure Compensation Act to make mandatory appropriations for fiscal years 2002 through 2011.

Section 1064 authorizes the Secretary of Transportation, in consultation with the Secretary of Defense, to waive certain vehicle weight limits on specified portions of the Interstate highway system during a period of national emergency.

Section 1065 authorizes the Secretary of the Air Force, after a specified report, to make a grant to the Lafayette Escadrille Memorial Foundation, Inc. of up to \$2.0 million for repair, restoration, and preservation of the Lafayette Escadrille Memorial.

Title XI-Civilian Personnel Matters

Subchapter A. Department of defense Civilian Personnel.—Section 1101 authorizes the Secretary of Defense to establish pay rates and set qualifications for Pentagon civilian law enforcement and security personnel that are comparable to other federal law enforcement and security organizations within the vicinity of the Pentagon.

Section 1102 authorizes the Secretary of Defense to establish a pilot program to pay retraining expenses for Department of Defense employees scheduled for involuntary separation.

Section 1103 clarifies the authority of civilian attorneys in military legal assistance offices and certain civilian employees overseas to perform notarial acts.

Section 1104 authorizes the Secretary of Defense to appoint certain health care professionals in the excepted service without regard to certain provisions of chapter 33 of title 5, United States Code, regarding examination, certification, and appointment.

Subtitle B. Civilian Personnel management Generally.—Section 1111 authorizes hostile fire or imminent danger pay in the monthly amount of \$150 for civilians for any month the civilian is subject to hostile fire or the explosion of mines.

Section 1112 authorizes federal agencies to pay for employee credentials, professional licenses, and professional certification.

Section 1113 requires the Secretary of Defense, when establishing wage schedules and rates for prevailing wage employees, to consider rates paid for comparable positions in private industry in the nearest wage area that is most similar to the wage area for which wage rates are being established when there are insufficient positions in the local industry upon which to establish wage schedules and rates.

Section 1114 amends the period used for limiting the amount of overtime pay. It gives heads of agencies discretionary authority to use the calendar year as the period for limiting the amount of overtime pay for employees performing work that is critical to the mission of the agency instead of the current biweekly period.

Section 1115 authorizes Department of Defense personnel to participate in meetings that set technical standards for products, manufacturing processes, and management practices.

Section 1116 authorizes federal employees of the Executive Branch, members of the foreign service, military members, employees of the Judicial Branch, certain employees of the Legislative Branch, and their family members to retain for personal use promotional items received as a result of using travel or transportation services paid for by the Executive Branch.

Section 1117 clarifies that state and local government officials detailed to work in federal

agencies are subject to the same standards of official conduct that apply to other federal employees.

Subtitle C. Intelligence Civilian Personnel.—Section 1121 increases the maximum number of positions in the Defense Intelligence Senior Executive Service from 517 to 544.

Subtitle D. Matters Relating to Retirement.—Section 1131 removes the requirement that employees who transfer between non-appropriated and appropriated fund employment systems have five or more years of service in a system to elect to continue in the Civil Service Retirement System, Federal Employees Retirement System, or Non-appropriated Fund Retirement System, as applicable.

Section 1132 authorizes federal employees the opportunity to elect to receive either Civil Service Retirement System or Federal Employees Retirement System credit for prior non-appropriated fund service.

Section 1133 authorizes the Secretary of Defense, during fiscal year 2003, to use voluntary separation incentives and voluntary early retirement authority for workforce restructuring for up to 2000 employees in fiscal year 2002 and 6000 in 2003 to meet mission needs, achieve strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions.

Title XII-Matters Relating to Other Nations

Subtitle A. Matters Relating to Arms Control and Monitoring.—Section 1201 amends section 1203 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 to clarify that the Department of Defense has the authority to transfer title of existing nuclear test monitoring equipment to foreign host nation governments, and to inspect and maintain such equipment to ensure that it continues to provide the data needed to satisfy United States nuclear test monitoring requirements. The provision also codifies the existing authority as section 2565 of title 10, United States Code.

Section 1202 prohibits the Secretary of Defense from obligating or expending 50 percent of fiscal year 2002 funds for the Joint Data Exchange Center (JDEC) in Moscow until 30 days after the Secretary of Defense submits to the congressional defense committees an agreement between the United States and Russia to share the costs of the JDEC, and to exempt U.S. government personnel from liability under Russian laws for activities associated with the JDEC.

Section 1203 extends the authority under section 1505 of the Weapons of Mass Destruction Act of 1992 (22 U.S.C. 5859a) for the Department of Defense to expend up to \$15.0 million in fiscal year 2002 in support of United Nations-sponsored inspection and monitoring efforts in Iraq.

Section 1204 amends section 303(b)(2) and section 304(c) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6723(b)(2) and 6724(c)) to authorize Federal

Government contractor personnel to participate in inspections of United States Government- owned facilities conducted under that Act if led by a Federal Government employee.

Section 1205 directs the President to submit to Congress a plan for cooperation with Russia and other states of the former Soviet Union to dispose of excess nuclear materials and nuclear weapons, and to prevent the outflow of Russian scientific expertise in the area of weapons of mass destruction. It requires that the plan include programs to assist the former Soviet states in downsizing their nuclear weapons research and production. In addition, the amendment requires the President to consider establishing an interagency committee to coordinate and monitor the non proliferation efforts of the United States, to recommend policy and budget options for the U.S. non proliferation programs, and to encourage increased coordination with and greater participation of international partners, including efforts to increase international contributions for such programs. The provision includes specific plan elements and requires the President to consult with Russia and Congress in developing the plan.

Subtitle B. Matters Relating to Allies and Friendly Foreign Nations—Section 1211 amends the Multinational Force and Observers (MFO) Participation Resolution (Public Law 97-132) to authorize the President to approve contracting out the logistical and aviation support for the MFO mission currently performed by U.S. soldiers. The provision also provides that U.S. sponsored contract support could be provided to the MFO mission without reimbursement if the President determines that such action enhances or supports the national security of the United States.

Section 1212 amends section 2350a of title 10, United States Code, to expand the entities, to include friendly foreign countries, with which the Department of Defense is authorized to enter into cooperative research and development agreements.

Section 1213 authorizes the Secretary of Defense, with the concurrence of the Secretary of State, to enter into a memorandum of understanding with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment. The provision requires the charging of direct costs and authorizes charging indirect costs, but only to the extent specified in the memorandum or other agreement.

Section 1214 expresses the sense of the Congress that the efforts of the President to increase burden sharing by allied and friendly nations deserve strong support. The provision also expresses the sense of the Congress that host nation support agreements with those nations in which U.S. military personnel are permanently assigned should be negotiated consistent with section 1221(a)(1) of the National Defense Authorization Act for Fiscal Year 1998, which sets forth a goal of obtaining financial contributions from such host nations that amount to 75 percent of the non personnel costs.

Subtitle C. Reports—Section 1221 amends section 1202 of the National Defense Authorization Act for Fiscal Year 2000. It requires a one-time report due on March 1, 2002, on

significant transfers of military equipment, expertise and technology to the People's Republic of China from any nations.

Section 1222 repeals the reporting requirement on military deployments to Haiti.

Section 1223 requires the Comptroller General of the United States to study the benefits, costs, and readiness impact to the U.S. Armed Forces with regard to defense articles, services, or military education and training provided under the authority of the Foreign Assistance Act of 1961 or any similar provision of law and by August 1, 2002, to submit a final report containing the results of the study.

Title XIII—Cooperative Threat Reduction with States of the Former Soviet Union

Section 1301 defines the Cooperative Threat Reduction (CTR) program as those programs specified in section 1501 of the National Defense Authorization Act for Fiscal Year 1997, it defines the CTR funds as those authorized appropriated in section 301, and authorizes the CTR funds to be available for obligation for three fiscal years.

Section 1302 authorizes \$403.0 million, the amount included in the budget request, for the CTR programs. The provision also establishes the funding levels for the component parts of the program, and provides limited authority to vary the amounts for specific program elements. The provision combines the amounts provided for chemical weapons destruction activity in Russia into a single category. The provision removes the funding limitation for nuclear weapons transportation security contained in section 1302 (c)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Section 1303 requires the Secretary of Defense to submit the reports required by section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. It prohibits the Secretary of Defense from spending more than 50 percent of the funds available for the CTR program for fiscal year 2002 until 30 days after the Secretary submits the report.

Section 1304 requires the Secretary of Defense to consider the revenue generated by CTR program-related activities in Russia when carrying out the CTR program.

Section 1305 prohibits fiscal year 2002 CTR funds, and CTR funds previously authorized and appropriated, from being used to construct a second wing of the storage facility for fissile material storage in Mayak, Russia.

Section 1306 prohibits the use of CTR program funds from being used for Russian construction to eliminate the production of weapons grade plutonium.

Section 1307 amends section 1308 of the Floyd D. Spence National Defense Authorization

Act for Fiscal Year 2001 to modify the report on activities and assistance under CTR programs.

Section 1308 amends section 1305 of the National Defense Authorization Act for Fiscal Year 2000 to establish a certification process by the Secretary of Defense that must be completed before any funds could be spent for construction of a chemical weapons destruction facility at Shchuch'ye, Russia.

Section 1309 amends the annual report required by section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 to include a new section describing the amount of the annual commitment from the international community and from Russia for the chemical weapons destruction facility at Shchuch'ye.

Title XIV-Armed Forces Retirement Home

Sections 1401 through 1409 relate to the management of the Armed Forces Retirement Home. They define, for statutory construction, certain terms used in the management of the retirement home; establish the home as an independent establishment of the Executive branch; authorize the Secretary of Defense to appoint the chief operating officer who would report to the Secretary; repeal the requirement that residents need to reapply for admission when absent for over 45 days; set fees and authorize the chief operating officer to establish fee schedules; authorize the Secretary to appoint boards of trustees and a director and deputy director for each facility; and provide transitional, clarifying, and technical amendments with regard to the legal authorities for the retirement homes.

Title XV — Activities Relating to Combating Terrorism

Subtitle A. Increased Funding for Combating Terrorism.—Sections 1501-06 provide increased funding for the Department of Defense and the National Nuclear Security Administration for combating terrorism for fiscal years 2001 and 2002.

Section 1502 increases the amounts authorized to be appropriated for fiscal year 2001 by the amounts appropriated in the ETR Supplemental Appropriations Act (Public Law 107-38) or transferred by the President, but not to exceed \$13.7 billion for the Department of Defense and \$5 million for the National Nuclear Safety Administration.

Section 1503 authorizes appropriations to the Defense Emergency Response Fund for fiscal year 2002 in the total amount of more than \$7.349 billion for the Department of Defense, \$106 million for the National Nuclear Security Administration, and \$11.7 million to the Department of Energy.

Section 1504 permits the use of such funds for military construction projects.

Subtitle B. Policy Matters Relating to Combating Terrorism.—Section 1512 provides that the Chairman of the Joint Chiefs of Staff may make funds from the Combating Terrorism Readiness

Initiatives Fund available to the commander of a combatant command for prescribed activities, including the procurement and maintenance of physical security equipment and improvement to physical security sites.

Section 1513 conveys, without cost, to state and local governments training equipment loaned to them as part of the Domestic Preparedness Program. The equipment, purchased by the Department of Defense on behalf of cities participating in the Domestic Preparedness Program, is permanently retained and maintained on loan due to the legal prohibition against transferring Department of Defense property directly to non-Federal Government agencies. As a result, the Department has been required to inventory, and to hold some liability for, this equipment. In addition, local authorities have incurred the additional task of maintaining records to the Department of Defense standards. This one-time transfer was intended to eliminate the financial cost, labor and liabilities associated with this equipment so long as it remains Department of Defense property.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Division B is entitled the “Military Construction Authorization Act for Fiscal Year 2002.”

S. 1489 authorizes appropriations of approximately \$6.4 billion for military construction, approximately \$0.5 billion more than the Administration’s \$5.9 billion request. S. 1489 also authorizes appropriations of approximately \$4.1 billion for family housing, as requested by the Administration.

Specifically, S. 1489 authorizes appropriations of nearly:

- \$3.2 billion for Army military construction and family housing;
- \$2.4 billion for Navy military construction and family housing programs;
- \$2.6 billion for Air Force military construction and family housing; and
- \$850 million for Defense Agencies military construction and family housing.

Finally, S. 1489 authorizes appropriations of \$162 million for the NATO Security Investment program.

Title XVI—Uniformed Services Voting

Section 1601 expresses the sense of the Congress that each administrator of a federal, state, or local election should be aware of the importance of the ability of each uniformed services voter to exercise the right to vote; that the administrators should perform their duties with the intent to ensure that each uniformed services voter receives the utmost consideration and cooperation when voting; that

each valid ballot cast by such a voter is duly counted; and that all eligible American voters should have an equal opportunity to cast a vote and to have that vote counted.

Section 1602 requires the Secretary of Defense to promulgate regulations to ensure that each service complies with directives implementing the Federal Voting Assistance Program (FVAP) and requires the Inspector General of each service to conduct an annual review of compliance with the FVAP and report the results to the Department of Defense Inspector General, who would report annually to Congress. It also requires the Secretaries of the military departments to assess annually compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff *et seq.*).

Section 1603 provides that for purposes of voting in any federal, state or local election, a person absent from a state pursuant to military orders would not, solely by reason of that absence, be deemed to have lost a residence or domicile in that state; acquired a residence or domicile in another state; or become a resident in or of any other state.

Section 1604 requires the Department of Defense to conduct an electronic voting demonstration for absent military voters in the November, 2002, federal elections.

Section 1605 requires the chief executive officer of a state to report on the implementation of a uniformed services voting assistance legislative recommendation from the Secretary of Defense within 90 days of receipt of that recommendation.

Section 1606 requires states to accept and process the official postcard form as a simultaneous absentee voter register application and absentee ballot application.

Section 1607 authorizes the use of Department of Defense facilities as polling places if the facilities were designated as such on December 31, 2000, or have been used as such since January 1, 1996, unless the Secretary of Defense or the Secretary of a military department determine that local security conditions preclude such use.

Title XXVIII — General Provisions

Subtitle A. Military Construction Program and Military Family Housing Changes.—Section 2801 increases the cost thresholds for unspecified minor military construction projects for which prior authorization is not required— (1) for an unspecified minor construction project requiring advance approval and increases, the threshold increases from \$500,000 to \$750,000; (2) for projects intended to correct deficiencies that are a threat to life, health, or safety, the threshold increases from \$1 million to \$1.5 million; and (3) for other unspecified minor construction projects, the threshold increases from \$500,000 to \$750,000.

Section 2802 excludes, from the 25 percent cost increase limitation, those costs associated with unforeseen environmental hazard remediation in conjunction with a military construction project.

Section 2804 authorizes the Secretary of Defense, to the extent provided in advance in appropriations acts, during the year in which a contract is awarded for a family housing privatization project, to reimburse the Military Personnel appropriations account from the Family Housing Maintenance and Operations appropriations the amounts necessary to offset the additional cost of housing allowances that would be paid as a result of a housing privatization project.

Section 2805 extends the alternative authority to acquire and improve military housing through December 31, 2012.

Subtitle B. Real Property and Facilities Administration.—Section 2811 authorizes the Secretary of Defense to waive State or territory fish and game laws relating to hunting, fishing, or trapping at military installations if such a waiver is required for health or safety reasons. The Secretary of Defense must notify state officials 30 days prior to implementing any such waiver.

Section 2812 increases, from 50 percent to 100 percent, the share of the proceeds from the sale of surplus Department of Defense property at closed installations that may be used for infrastructure maintenance and environmental restoration at other installations within the service that operated the closed installation. This section applies only to proceeds from sale of property disposed of other than through the base realignment and closure statutes.

Section 2813 authorizes the Secretary of the Defense to establish a pilot program to determine the potential for increasing the efficiency and effectiveness of the operation of military installations through the lease, disposal, or leaseback of real and personal property or the conversion of services at the installation. All cash rents, payments, reimbursements, proceeds, and other amounts are available, to the extent provided in advance in authorization and appropriations Act, to the Secretary to the purposes of managing capital assets and providing support services at the installation.

Section 2814 authorizes the Secretary of the Army to conduct a demonstration program to assess the feasibility and desirability of including facility maintenance requirements in construction contracts for the purpose of determining whether such requirements facilitate reductions in the long-term facility maintenance costs of the military departments.

Section 2815 authorizes the Secretary of the Air Force to provide environmental indemnification to the San Antonio community and other persons for personal injury or property damage resulting from environmental contamination resulting from Department of Defense activities at Brooks Air Force Base.

Subtitle C. Implementation of Prior Base Closure and Realignment Rounds.— Section

2821 authorizes the Secretary concerned to transfer real property at a closed or realigned military installation to the redevelopment authority for the installation directly upon transfer (if the redevelopment authority agrees), and to lease one or more portions of the property transferred to the Secretary or to the head of another department or agency of the Federal Government. Such leases could not exceed 50 years and may not require rental payments by the United States.

Subtitle D. Land Conveyances.—Subtitle D authorizes the conveyance, lease, transfer, exchange, and acquisition of real property, other property interests, and water rights by the respective Secretaries concerned and stipulates the terms of each conveyance, lease, transfer, exchange, or acquisition.

Subtitle E. Other Matters.—Section 2861 authorizes the Trust for the Presidio of San Francisco, California, to lease certain housing units within the Presidio to persons designated by the Secretary of the Army. The monthly amount charged, including utilities and municipal services, may not exceed the monthly rate of the basic allowance for housing. In addition, this section would increase the borrowing authority of the Trust from \$50 million to \$150 million.

Section 2862 authorizes the Secretary of the Interior to transfer, without reimbursement, to the Secretary of the Air Force approximately 35 acres, located in Park City, Utah, for use as an Air Force morale, welfare, and recreation facility.

Section 2863 directs the Secretary of Defense to transfer a three-acre parcel on the Naval Annex site to the Secretary of the Army for use as the location of the Air Force Memorial and provides for the construction of the memorial. The section specifically exempts the siting, design, and construction of the memorial from the Commemorative Works Act.

Section 2864 authorizes the Secretary of Defense to establish a memorial at the Pentagon to the victims of the terrorist attack of September 11, 2001.

Section 2865 repeals the limitation on cost of the renovation of the Pentagon reservation.

Section 2866 provides for the design, construction, and operation of a U.S. Army Heritage and Education Center at Carlisle Barracks, Pennsylvania, that will serve as research facilities, classrooms, offices.

Section 2867 effectively authorizes limitations of State law enacted after January 1, 2001, that directly or indirectly prohibit or restrict the construction or approval of a road or highway within an easement granted under this section at Marine Corps Base, Camp Pendleton, California.

Section 2868 provides for the establishment of additional World War II memorials on federal lands near Yigo, Guam.

Section 2869 extends the municipal government services demonstration project so to allow for the purchase of fire-fighting and police services through January 31, 2002, and for the purchase of other services, including utilities and public works, through September 30, 2003.

Title XXIX—Fort Irwin Military Land Withdrawal

Title XXIX is entitled the “Fort Irwin Military Land Withdrawal Act of 2001.”

Sections 2901-13 withdraws of approximately 110,000 acres of public lands in San Bernardino County, California, and transfers jurisdiction of this tract to the Secretary of the Army for military testing, training, and other defense-related purposes at the National Training Center. The proposal is similar to a draft bill jointly transmitted by the Departments of the Army and the Interior on behalf of the Administration .

Title XXX—Realignment and Closure of Military Installations and Preparation of Infrastructure for the Nuclear Weapons Complex

Title XXX authorizes the Administration’s request for a new round of base closures, but delays the action until fiscal year 2005.

Section 3001 establishes the process for the 2005 round of closures, including a requirement that the Secretary of Defense to submit to Congress in 2004 a detailed force structure plan and certifies that (1) proceeding with base closures is necessary and justified and (2) his recommendations for base closures will result in annual net savings for each of the services by 2011. Failure to do so will halt the process. Section 3002 prescribes the selection criteria for the 2005 round, and section 3003 provides revised procedures for making realignments and closure recommendations. The criteria and revised procedures are similar to previous base closure rounds, but differs in that:

- “military value” must be the primary evaluation criteria used in the base closure process;
- the Department of Defense and the Commission must give special consideration of the extent and timing of costs and savings, the impact of potential environmental remediation costs, and the impact on existing communities in the vicinity of military installations when making closure and realignment decisions;
- the Department of Defense may place closed bases into inactive status if those facilities may be needed in the future for national security purposes; and
- the Commission may not add any military facility to the list of facilities to be closed unless seven of the nine commissioners agrees to do so. In contrast, the Commission could remove a base from the closure list by a simple-majority vote.

WHITE HOUSE STAFFING MEMORANDUMDate: 12-22-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01 COBSubject: SAP FOR S.1438 -- NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☐	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
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HAGIN	☐	☐	CLERK	☐	☒
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REMARKS:

PLEASE SEND COMMENTS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN COB WEDNESDAY, 12-26-01, WITH A COPY TO BETH ROSSMAN, X54790. THANK YOU.

RESPONSE: _____

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

STATEMENT BY THE PRESIDENT

I have today signed into law S. 1438, the "National Defense Authorization Act for Fiscal Year 2002." The Act authorizes the funding necessary to defend the United States and its interests around the globe. In particular, it provides the resources needed to continue the war against global terrorism, accelerate programs for defense against biological or chemical attacks, 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.

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Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Routing Memo	[Statement by the President] - To: Harriet E. Miers - From: Andy Card	1	12/22/2001	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:

12/28/2001 [S. 1438] [1]

FRC ID:

781

OA Num.:

732

NARA Num.:

1458

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]

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WHITE HOUSE STAFFING MEMORANDUM

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BOLTEN <i>NC</i>	☒	☐	JOHNSON	☐	☐
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CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☒	☐	RICE <i>NC</i>	☒	☐
FLEISCHER	☐	☒	RIDGE <i>✓</i>	☒	☐
GERSON	☐	☐	ROVE <i>see comments</i>	☒	☐
GONZALES <i>see comment</i>	☒	☐	SPELLINGS <i>ok</i>	☒	☐
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RESPONSE:

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

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*no comments***RESPONSE:**

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OFFICE OF THE VICE PRESIDENT
WASHINGTON

December 26, 2001

MEMORANDUM FOR HARRIET MIERS
STAFF SECRETARY

FROM: JONATHAN BURKS
DEPUTY STAFF SECRETARY TO THE VICE PRESIDENT

SUBJECT: Signing Statement for S. 1438 – National Defense
Authorization Act for FY 2002

The Office of the Vice President has reviewed the above-referenced draft and concurs in the issuance of the proposed statement.

cc: Beth Rossman
Deputy Associate Director, OMB

WHITE HOUSE STAFFING MEMORANDUMDate: 12-22-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01 COBSubject: SAP FOR S.1438 -- NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2002

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Harriet E. Miers
 Assistant to the President
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 Ext. 62702

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Samuel Chabon

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Under Section 1002 of the Act, Congress has stated that it incorporates a classified annex into the statute. This annex contains authorizations of appropriations for specified classified programs. I urge Congress to avoid efforts to enact secret law as part of future defense authorization acts.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Routing Memo	[Statement by the President] - To: Harriet E. Miers - From: Alberto Gonzales	1	12/22/2001	P5;

**This marker identifies the original location of the withdrawn item listed above.
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COLLECTION:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

12/28/2001 [S. 1438] [1]

FRC ID:

781

OA Num.:

732

NARA Num.:

1458

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]
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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.
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- 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]

STATEMENT BY THE PRESIDENT

I have today signed into law S. 1438, the "National Defense Authorization Act for Fiscal Year 2002." The Act authorizes the funding necessary to defend the United States and its interests around the globe. In particular, it provides the resources needed to continue the war against global terrorism, accelerate programs for defense against biological or chemical attacks, 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.

The Act provides important improvements in the quality of life for the members of our Armed Forces, who have dedicated their lives to the defense of their fellow citizens. It provides for a substantial and well-deserved increase in basic pay, improved educational opportunities as an incentive to reenlist, and more resources to improve military housing. The legislation also addresses important needs of military families, such as improved job training and education opportunities for military spouses and access for home-schooled children of military families to facilities and programs of Department of Defense dependent schools.

The Act will assist greatly in the rebuilding and reshaping of the Armed Forces to meet future challenges. In particular, it provides procurement authority for programs crucial to the projection of American military power in support of U.S. interests abroad, such as carrier-based strike aircraft, air superiority fighter aircraft, large-capacity cargo aircraft, and a fast attack submarine. The Act also authorizes funds to move forward with our program for an effective defense against ballistic missiles.

The legislation reflects my Administration's important initiative to establish a process for realignment and closure of unneeded military facilities. Such realignments and closures will allow the Government to use more effectively the taxpayer resources devoted to the national defense. As the Act requires, military value will be the primary consideration in recommending realignments and closures. Regrettably, the Act defers the start of the base closure and realignment process for several years, rather than providing for its immediate commencement to permit efficient restructuring promptly.

Section 1116 of the Act authorizes Federal agency employees to retain and make personal use of promotional items such as frequent flyer miles, upgrades or access to carrier clubs or facilities received as a result of certain official travel. Agency regulations will ensure that, in connection with implementation of Section 1116, employees fully observe applicable principles of ethics in government and regulations which prevent unneeded or inefficient official travel.

The Act contains several provisions intended to improve the ability of members of the Armed Forces to exercise one of the most important rights that any citizen has -- the right to vote. Section 1605 of the Act requires State Governors, in certain circumstances, to provide reports to the Secretary of Defense concerning the Secretary's recommendations on State voting laws, including what recommendations the Governor has made or will make to the State legislature on the Secretary's recommendations. Section 1605 shall be implemented in a manner consistent with proper regard for the role of the States, and their legislatures and Governors, in our Federal system.

Several provisions of the Act, including sections 525(c), 546, 705, and 3152 call for Executive Branch officials to submit to Congress proposals for legislation. These provisions shall be implemented in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to recommend to Congress such measures as the President judges necessary and expedient.

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Under Section 1002 of the Act, Congress has stated that it incorporates a classified annex into the statute. This annex contains authorizations of appropriations for specified classified programs. I urge Congress to avoid efforts to enact secret law as part of future defense authorization acts.

WHITE HOUSE STAFFING MEMORANDUM

Date: 12-21-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01, COBSubject: S. 1438 -- NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 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 SEND COMMENTS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN COB WEDNESDAY, 12-26-01. THANK YOU.

December 27, 2001

RESPONSE: The NSC clears with no comments.

Condoleezza Rice

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

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Views of the US Department of Transportation] - To: Mitchell E. Daniels, Jr. - From: Kirk K. Van Tine	2	12/17/2001	P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Views of the US Department of Justice] - To: Mitchell E. Daniels, Jr. - From: Daniel J. Bryant	3	12/20/2001	P5;

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THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

December 18, 2001

The Honorable Mitchell E. Daniels, Jr.
Director, Office of Management
and Budget
Old Executive Building
Washington, D.C. 20503

Attn.: Assistant Director for Legislative Reference
Washington, D.C. 20503

Dear Mr. Daniels:

I am pleased to respond to the request of the Assistant Director for Legislative Reference for the views of the Department of Veterans Affairs (VA) on the enrolled enactment of S. 1438, the "National Defense Authorization Act for Fiscal Year 2002."

VA restricted its review of the enrolled enactment to those provisions that in some way may pertain to VA. None of those provisions give rise to concerns that would warrant the President's disapproval of the bill. We defer to the views of the Department of Defense and other elements of the government on all other provisions of the bill.

We have enclosed a brief analysis of the provisions of the enrolled enactment that we believe may in some way pertain to VA.

Sincerely yours,

A handwritten signature in cursive script that reads "Anthony J. Principi".
Anthony J. Principi

Enclosure

Enrolled Enactment Of S. 1438 -- National Defense Authorization Act for Fiscal Year 2002

Analysis of Provisions Related to the Department of Veterans Affairs

Section 305. Funds for renovation of Department of Veterans Affairs facilities adjacent to naval Training Center, Great Lakes, Illinois.

Section 305 would authorize the Secretary of the Navy to provide up to \$2 million to the Secretary of Veterans Affairs to relocate VA activities and to renovate associated existing facilities at the North Chicago VA Medical Center. Transfer of funds would be contingent on the execution of an agreement by the respective Secretaries permitting the Navy to use approximately 48 acres of North Chicago Medical Center property on which to expand the Naval Training Center, Great Lakes, Illinois

Section 361. Availability of excess defense personal property to support Department of Veterans Affairs initiative to assist homeless veterans.

Section 361 would authorize the Department of Defense to transfer to VA, without charge, excess clothing, shoes, sleeping bags and other nonlethal supplies for use in VA's program for distribution of such items to homeless veterans, or programs that assist homeless veterans.

Section 554. Retroactive Medal of Honor special pension.

Section 554 would award to Robert R. Ingram, a Medal of Honor recipient who died in 1966 and received the Medal of Honor in 1997, the special pension provided under 38 U.S.C. § 1562 in the amount to which he would have been entitled from March 1966 had he been on the Medal of Honor Roll as of that date.

Section 561. Participation of military retirees in funeral honors details.

Section 561 would provide that a funeral honors detail for a veteran may include military retirees as long as the detail also includes two non-retired members of the armed forces, at least one of whom is a member of the armed force of which the veteran was a member. The provision would also authorize payment of an allowance to a military retiree who serves in a funeral honors detail.

Section 562. Funeral honors duty performed by Reserve and Guard members to be treated as inactive-duty training for certain purposes.

Section 562 would provide that performance of funeral honors duty by a Reservist not on active duty or a National Guard member not on active duty or full-time National Guard duty shall be treated as inactive-duty training.

Section 563. Use of military leave for funeral honors duty by Reserve members and National Guardsmen.

Section 563 would provide that Federal civil service employees and employees of the government of the District of Columbia are entitled to military leave for funeral honors duty.

Section 564. Authority to provide appropriate articles of clothing as civilian uniform for civilians participating in funeral honor details.

Section 564 would authorize the Secretaries of the military departments to provide appropriate civilian uniforms to members of a veterans organization or other organization approved under Department of Defense regulations for purposes of participation in a funeral honors detail.

Section 641. Contingent authority for concurrent receipt of military retired pay and veterans' disability compensation and enhancement of special compensation authority.

Section 641 would amend title 10, United States Code, by adding a new section 1414 to provide that certain members or former members of the uniformed services who are entitled to retired pay (after 20 years of creditable service) and veterans' disability compensation are entitled to be paid both, without regard to 38 U.S.C. §§ 5304 and 5305. New section 1414 would only be effective if "qualifying offsetting legislation" is proposed in the President's budget for any fiscal year and enacted by Congress. The term "qualifying offsetting legislation" would refer to legislation that offsets fully the increased outlays to be made as a result of new section 1414 for the first 10 fiscal years beginning after the date of enactment of such legislation, expressly states it is enacted for the purpose of the offset, and is included in full on the PayGo scorecard. Section 641 would also amend 10 U.S.C. § 1413, which authorizes special compensation for certain severely disabled military retirees, to provide increased benefits beginning in 2003 and to extend benefits under section 1413 to retirees with service-connected disabilities rated 60% disabling.

Section 654. Transfer of entitlement to educational assistance under Montgomery GI Bill by members of the Armed Forces with critical military skills.

Section 654 would add a new section to chapter 30 of title 38, United States Code, that would permit certain individuals to transfer to one or more of their dependents a portion of their entitlement to educational assistance under the Montgomery GI Bill - Active Duty. New section 3020 would authorize the Secretary of each military department concerned, for the purpose of enhancing recruitment and retention of members of the Armed Forces with critical military skills, to permit individuals to elect to transfer entitlement to their spouses and/or children as long as the individuals meet certain requirements, including completion of at least six years of service in the Armed Forces. The amount transferable would be limited to 18 months of the individual's entitlement.

Section 731. Prohibition against requiring military retirees to receive health care solely through the Department of Defense.

Section 731 would add a new section 1086b to title 10, United States Code, to prohibit the Secretary of Defense from taking any action to require a member of former member of the Armed Forces who is entitled to retired or retainer pay to enroll to receive health care from the Federal Government only through the Department of Defense. The effect of the provision would be to ensure that such individuals would continue to be able to obtain care under the auspices of the Department of Defense and, if otherwise eligible, to enroll to receive health from the Department of Veterans Affairs.

Section 734. Pilot program providing for Department of Veterans Affairs support in the performance of separation physical examinations.

Section 734 would authorize DoD and VA to jointly carry out a 2 ½ -year long pilot program under which VA would perform physical examinations of individuals separating from the Armed Forces. The program would be carried out pursuant to an agreement between the two departments specifying the locations for the pilot and providing for DoD reimbursement of VA for providing the examinations. The section would also authorize participation by uniformed services other than DoD (Coast Guard, Public Health Service) if the Secretary of Defense determines it necessary.

Section 738. Joint DoD-VA pilot program for providing graduate medical education and training for physicians.

Section 738 would authorize DoD and VA to jointly carry out a five-year pilot program under which graduate medical education and training is provided to military physicians and to physicians employed by both departments. The program would be conducted in one or more programs carried out by military

treatment facilities or VA medical centers. The program would be carried out in accordance with an agreement between the two parties that would provide for joint funding of the program that assures that each party pays the costs for individuals under the jurisdiction of each department.

Section 1112. Payment of expenses to obtain professional credentials.

Section 1112 would add a new section 5757 to title 5, which would authorize agencies to pay for expenses to obtain professional credentials, including expenses for professional accreditation, licenses, professional certification and related examinations. This authority would not apply to employees occupying or seeking confidential, policy-determining, policy-making, or policy-advocating excepted positions.

Section 1113. Parity in establishment of wage schedules and rates for prevailing rate employees.

Section 1113 would require the lead agency conducting a wage survey, in establishing prevailing wage employees rates and schedules, when there is insufficient comparable private industry positions, to consider rates for comparable private industry positions in the nearest wage area most similar to the wage area for which there are insufficient comparable positions. Wage adjustments made pursuant to this authority would be effective on the first normal effective date of the applicable adjustment occurring after the date of enactment.

Section 1114. Modification of limitation on premium pay.

Section 1114 would amend section 5547 of title 5 to increase the limitation on premium pay from the maximum rate payable for GS-15 to the greater of maximum rate payable for GS-15 or level V of the executive schedule. It also would provide agencies with discretionary authority to use the calendar year instead of a pay period for applying the limitation to employees performing work critical to the agency's mission. OPM would be authorized to prescribe regulations for the application of the limitation to employees receiving standby pay, criminal investigators and firefighters.

Section 1116. Retention of travel promotional items.

Section 1116 would authorize Federal employees and members of the uniformed services to retain promotional items, including frequent flyer miles and upgrades, that they receive as a result of official travel, including travel which the Government accepted pursuant to 31 U.S.C. § 1353.

STATEMENT BY THE PRESIDENT

THE PRESIDENT HAS SEEN
12-28-01

I have today signed into law S. 1438, the "National Defense Authorization Act for Fiscal Year 2002." The Act authorizes the funding necessary to defend the United States and its interests around the globe. In particular, it provides the resources needed to continue the war against global terrorism, accelerate programs for defense against biological or chemical attacks, 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.

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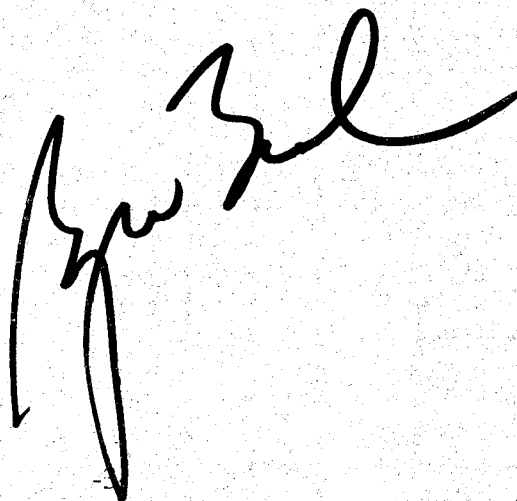
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Under Section 1002 of the Act, Congress has stated that it incorporates a classified annex into the statute. That annex contains authorizations of appropriations for specified classified programs. My Administration discourages enactment of secret law as part of annual defense authorization acts and instead encourages appropriate use of classified annexes to committee reports and the joint statement of managers that accompanies the final legislation.

A handwritten signature in black ink, appearing to be "Buzel", written in a cursive style.

STATEMENT BY THE PRESIDENT

THE PRESIDENT HAS SEEN

12-28-01

after 1438

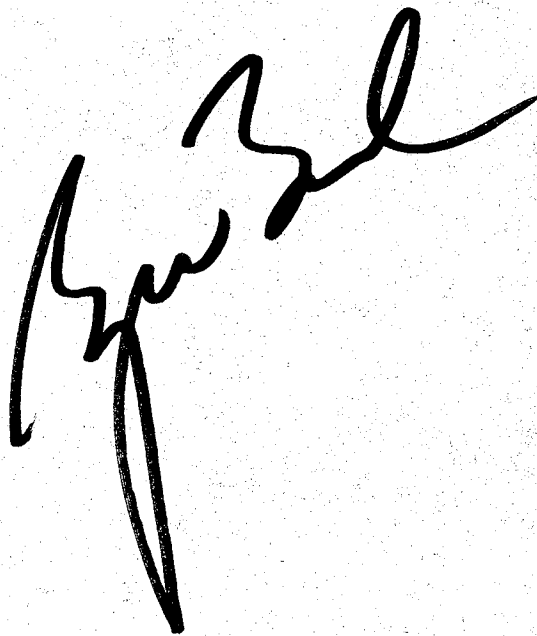
Today, I have signed into law H.R. 2883, the "Intelligence Authorization Act for Fiscal Year 2002." The Act authorizes appropriations to fund United States intelligence activities, including activities essential to success in the war against global terrorism. Regrettably, one provision of the Act falls short of the standards of comity and flexibility that should govern the relationship between the executive and legislative branches on sensitive intelligence matters and, in some circumstances, would fall short of constitutional standards.

Section 305 of the Act amends section 502 of the National Security Act of 1947, which relates to executive branch reports to the Congress under the intelligence oversight provisions of the National Security Act. Section 305 purports to require that reports submitted to the congressional intelligence committees by the executive branch on significant anticipated intelligence activities or significant intelligence failures always be in written form, with a concise statement of facts pertinent to the report and an explanation of the significance of the activity or failure.

Section 502 of the National Security Act as amended by section 305 of the Act shall be construed for all purposes, specifically including for the purpose of the establishment of standards and procedures under section 502(c) of the National Security Act by the Director of Central Intelligence, in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair

foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. Section 502 shall also be construed in a manner consistent with the statutory responsibility of the Director of Central Intelligence to protect intelligence sources and methods and other exceptionally sensitive matters.

THE WHITE HOUSE,

A large, stylized handwritten signature in black ink, likely belonging to a high-ranking official, positioned in the lower right quadrant of the page.

WHITE HOUSE STAFFING MEMORANDUM

Date: 12-21-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01, COB

Subject: S. 1438 -- NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT <i>Concur</i>	☒	☐	HUBBARD	☐	☐
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PLEASE SEND COMMENTS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN COB WEDNESDAY, 12-26-01. THANK YOU.

RESPONSE:

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

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Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;

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Other Significant Defense Provisions

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Navy Marine Corps Intranet (NMCI). Initiated by the Navy in 1999, NMCI is a long-term initiative between the Navy and the private sector to deliver a single integrated and coherent department-wide network for Navy and Marine Corps shore commands. If implemented successfully, it would provide comprehensive, end-to-end information services for data, video and voice communications for Navy military and civilian personnel, and deliver global connectivity. S. 1438 would largely authorize DoD's rephased implementation plan, but would include certain requirements, including the successful completion of a customer test and evaluation, as well as performance milestones. The enrolled bill also requires the Secretary of the Navy to identify a single NMCI manager.

Military Border Patrol. The enrolled bill does not include a House provision that would have authorized the use of military personnel to assist other Federal agencies in patrolling the borders.

Defense Impact Review. The enrolled bill requires the Secretary of Defense to recommend to the President (and provide a copy to Congress) within 180 days after enactment of this bill whether or not to establish a defense impact review process in the Executive Branch.

The intended purpose is to review "certain proposed actions of other Federal agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense."

Pentagon Reservation and September 11 Memorial. S. 1438 authorizes DoD to accept monetary contributions made for the sole purpose of establishing a memorial at the Pentagon, or assisting in repair and reconstruction of the Pentagon Reservation following the September 11 terrorist attack. The bill also removes a previous legislative limit on the cost of renovating the Pentagon.

Department of Energy

S. 1438 authorizes \$14 billion for the Department of Energy's national security programs. This includes \$6.2 billion for the Defense Environmental Management program (\$435 million above the request). This increase is partially offset by a \$28 million reduction for Energy's Other Defense Activities (\$528 million requested) and a \$30 million cut for Defense Nuclear Waste Disposal (\$310 million requested). Funding for the National Nuclear Security Administration is described below.

National Nuclear Security Administration (NNSA). The enrolled bill authorizes \$7.1 billion for NNSA programs, \$344 million more than the request. The enacted FY 2002 appropriation for NNSA is \$7.2 billion. Within the authorized amount, S. 1438 authorizes \$5.3 billion for Weapons Activities, \$776.9 million for Nuclear Nonproliferation programs (separate from the CTR Programs), \$688 million for Naval Reactors, and \$313 million for overhead and salaries to manage the programs. The enrolled bill authorizes approximately \$299 million above your request for Weapons Activities and \$44 million above the request for Nuclear Nonproliferation. The authorized level for Naval Reactors is equal to the request.

Disposition of Plutonium at the Savannah River Site. S. 1438 requires the Secretary of Energy to consult with the Governor of South Carolina on plans related to the disposition of surplus plutonium materials at the Savannah River Site. Prior to beginning each shipment of plutonium to the Site, the Secretary must provide 30 days notice to the congressional defense committees. Also, the Secretary must prepare a disposition plan for the timely removal of plutonium from the Savannah River Site for storage or disposal elsewhere. The bill prohibits the Secretary from shipping plutonium to the Site after February 1, 2002, if the plan has not been submitted to Congress.

Rocky Flats National Wildlife Refuge. S. 1438 would, subject to certain conditions, require the Department of Energy to transfer its Rocky Flats site near Denver, Colorado, to Interior as this site would become a unit of the National Wildlife Refuge System. The transfer would occur after EPA certifies that cleanup and closure of the site by Energy is complete. A Memorandum of Understanding between Energy and Interior, to be drafted and finalized within specified time periods, would address agency responsibilities, including allocation of costs associated with post-transfer environment-related actions.

Energy Employees Occupational Illness Compensation Program. The FY 2001 National Defense Authorization Act established a program to compensate Department of Energy workers, and contractor and vendor employees, who have developed specified illnesses as a result of their work in the DOE nuclear weapons complex. The covered illnesses are chronic berylliosis and beryllium sensitivity, radiogenic cancer, and chronic silicosis. Among other changes, S. 1438 would relax the threshold standard for determining chronic silicosis to the level required for RECA (see next item) and expands the category of individuals eligible to collect survivors' benefits. OMB estimates the ten-year mandatory cost of these changes is \$195 million.

Other Significant Provisions

Radiation Exposure Compensation Act (RECA). S. 1438 changes the funding of the Radiation Exposure Compensation Trust Fund to mandatory appropriations, and provides up to \$655 million for fiscal years FY 2002-2011. The 1990 RECA statute authorized Federal compensation to persons who became ill as a result of exposure to radiation associated with the Government's nuclear weapons testing program during the Cold War. Since 1990, the Fund has been a discretionary program. However, Congress expanded eligibility for RECA in 2000 without providing adequate additional funding. This language provides funding to meet current and future claims. OMB estimates this benefit would increase direct spending by \$648 million over ten years.

Assistance to Firefighters. The enrolled bill would authorize appropriations for FY 2002 through 2004 for assistance for firefighters to be provided by the Federal Emergency Management Agency's U.S. Fire Administration. The bill would raise the amount previously authorized for FY 2002 from \$300 million to \$600 million, and set authorizations of up to \$800 million in FY 2003 and \$1 billion in FY 2004. The Administration did not request an increase in the authorized level.

Hostile Fire Pay. S. 1438 authorizes a new pay rate for civilian Federal employees who are exposed to hostile fire or mines, or who are in imminent danger of such exposure. The pay would be \$150 per month (the same rate as a similar authority for military personnel) for the month employees are exposed, and is retroactive to September 11, 2001.

Retention of Travel Promotional Items. The enrolled bill authorizes Federal employees, members of the Foreign Service, military members, and their family members to retain for personal use promotional items (e.g., frequent flyer miles) received as a result of using travel or transportation services paid for by the Federal Government or under certain other circumstances.

Federal Prison Industries (FPI). The enrolled bill requires DoD to conduct market research to determine if FPI products and delivery schedules are comparable to those of the private sector. If the Secretary determines they are not, then DoD shall compete the bids for procurement of these items.

Reporting Requirements. S. 1438 includes over 90 reporting requirements, including those highlighted above to Congress (primarily to the House and Senate Armed Services Committees) on subjects ranging from the missile defense plans and activities to the implementation of recommendations of the acquisition 2005 task force.

FY 2002 Authorizations by Appropriation Category
 (Total Discretionary and Mandatory Budget Authority in \$ billions)

	<u>Request</u>	<u>S. 1438</u>	<u>Difference</u>
DoD-Military (051)			
Military Personnel	82.3	82.3	0.0
Operations and Maintenance	125.9	123.9	-2.0
Procurement	61.6	62.4	0.8
Research, Development, Test and Evaluation *	47.4	46.5	-0.9
Military Construction	5.9	6.4	0.5
Family Housing	4.1	4.1	0.0
Revolving Funds	2.3	2.1	-0.2
Unallocated for Missile Defense (MD) or Counter- Terrorism Funds*	\$1.3b for MD incl..above]	1.3	1.3
Other	<u>-1.7</u>	<u>-1.7</u>	<u>0.0</u>
Total DoD-Military	327.8	327.3	-0.5
DoE and Related Programs	14.2	14.4	0.2
Other Defense	1.5	1.7	0.2
Total National Defense Function (050)	343.5	343.4	-0.1

* S. 1438 requires a Presidential determination to allocate these funds for either activity. Once a determination is made, S. 1438 allocations by major category would be adjusted. If amounts are provided for Missile Defense, RDT&E would be increased.

WHITE HOUSE STAFFING MEMORANDUM

Date: 12-21-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01, COB

Subject: S. 1438 -- NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 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 SEND COMMENTS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN COB WEDNESDAY, 12-26-01. 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)
Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	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:

12/28/2001 [S. 1438] [1]

FRC ID:

781

OA Num.:

732

NARA Num.:

1458

RESTRICTION CODES

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

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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.
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National Training Center at Fort Irwin, California. Largely consistent with an Administration proposal, the enrolled bill expands the Army's National Training Center by adding over 110,000 acres of open maneuver space to address the Army's need to train over larger areas to accommodate the increased speed, range, and power of weapon systems while also addressing environmental concerns. The Secretaries of the Army and the Interior would be required to enter into agreements, comply with environmental laws, and, with others, consult on the land arrangements and environmental management plans.

Voting Provisions relating to Military Personnel. The enrolled bill requires DoD to issue regulations to ensure that the Federal Voting Assistance Program requirements are being met, and to conduct a demonstration project in 2002 for transmitting military absentee votes through an electronic voting system. Each Service Inspector General would be required to conduct an annual review for compliance. The enrolled bill would require States, subject to certain conditions, to allow deployed military personnel and other overseas voters to simultaneously register to vote and apply for an absentee ballot for any Federal election, and when requested by these voters, to automatically mail ballots for any subsequent Federal election for that year. S. 1438 also requires State Governors, in certain circumstances, to provide reports to the Secretary of Defense concerning the Secretary's recommendations on State voting laws, including what recommendations the Governor has made or will make to the State legislature on the Secretary's recommendations.

Navy Marine Corps Intranet (NMCI). Initiated by the Navy in 1999, NMCI is a long-term initiative between the Navy and the private sector to deliver a single integrated and coherent department-wide network for Navy and Marine Corps shore commands. If implemented successfully, it would provide comprehensive, end-to-end information services for data, video and voice communications for Navy military and civilian personnel, and deliver global connectivity. S. 1438 would largely authorize DoD's rephased implementation plan, but would include certain requirements, including the successful completion of a customer test and evaluation, as well as performance milestones. The enrolled bill also requires the Secretary of the Navy to identify a single NMCI manager.

Military Border Patrol. The enrolled bill does not include a House provision that would have authorized the use of military personnel to assist other Federal agencies in patrolling the borders.

Defense Impact Review. The enrolled bill requires the Secretary of Defense to recommend to the President (and provide a copy to Congress) within 180 days after enactment of this bill whether or not to establish a defense impact review process in the Executive Branch.

The intended purpose is to review "certain proposed actions of other Federal agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense."

Pentagon Reservation and September 11 Memorial. S. 1438 authorizes DoD to accept monetary contributions made for the sole purpose of establishing a memorial at the Pentagon, or assisting in repair and reconstruction of the Pentagon Reservation following the September 11 terrorist attack. The bill also removes a previous legislative limit on the cost of renovating the Pentagon.

Department of Energy

S. 1438 authorizes \$14 billion for the Department of Energy's national security programs. This includes \$6.2 billion for the Defense Environmental Management program (\$435 million above the request). This increase is partially offset by a \$28 million reduction for Energy's Other Defense Activities (\$528 million requested) and a \$30 million cut for Defense Nuclear Waste Disposal (\$310 million requested). Funding for the National Nuclear Security Administration is described below.

National Nuclear Security Administration (NNSA). The enrolled bill authorizes \$7.1 billion for NNSA programs, \$344 million more than the request. The enacted FY 2002 appropriation for NNSA is \$7.2 billion. Within the authorized amount, S. 1438 authorizes \$5.3 billion for Weapons Activities, \$776.9 million for Nuclear Nonproliferation programs (separate from the CTR Programs), \$688 million for Naval Reactors, and \$313 million for overhead and salaries to manage the programs. The enrolled bill authorizes approximately \$299 million above your request for Weapons Activities and \$44 million above the request for Nuclear Nonproliferation. The authorized level for Naval Reactors is equal to the request.

Disposition of Plutonium at the Savannah River Site. S. 1438 requires the Secretary of Energy to consult with the Governor of South Carolina on plans related to the disposition of surplus plutonium materials at the Savannah River Site. Prior to beginning each shipment of plutonium to the Site, the Secretary must provide 30 days notice to the congressional defense committees. Also, the Secretary must prepare a disposition plan for the timely removal of plutonium from the Savannah River Site for storage or disposal elsewhere. The bill prohibits the Secretary from shipping plutonium to the Site after February 1, 2002, if the plan has not been submitted to Congress.

Rocky Flats National Wildlife Refuge. S. 1438 would, subject to certain conditions, require the Department of Energy to transfer its Rocky Flats site near Denver, Colorado, to Interior as this site would become a unit of the National Wildlife Refuge System. The transfer would occur after EPA certifies that cleanup and closure of the site by Energy is complete. A Memorandum of Understanding between Energy and Interior, to be drafted and finalized within specified time periods, would address agency responsibilities, including allocation of costs associated with post-transfer environment-related actions.

Energy Employees Occupational Illness Compensation Program. The FY 2001 National Defense Authorization Act established a program to compensate Department of Energy workers, and contractor and vendor employees, who have developed specified illnesses as a result of their work in the DOE nuclear weapons complex. The covered illnesses are chronic berylliosis and beryllium sensitivity, radiogenic cancer, and chronic silicosis. Among other changes, S. 1438 would relax the threshold standard for determining chronic silicosis to the level required for RECA (see next item) and expands the category of individuals eligible to collect survivors' benefits. OMB estimates the ten-year mandatory cost of these changes is \$195 million.

Other Significant Provisions

Radiation Exposure Compensation Act (RECA). S. 1438 changes the funding of the Radiation Exposure Compensation Trust Fund to mandatory appropriations, and provides up to \$655 million for fiscal years FY 2002-2011. The 1990 RECA statute authorized Federal compensation to persons who became ill as a result of exposure to radiation associated with the Government's nuclear weapons testing program during the Cold War. Since 1990, the Fund has been a discretionary program. However, Congress expanded eligibility for RECA in 2000 without providing adequate additional funding. This language provides funding to meet current and future claims. OMB estimates this benefit would increase direct spending by \$648 million over ten years.

Assistance to Firefighters. The enrolled bill would authorize appropriations for FY 2002 through 2004 for assistance for firefighters to be provided by the Federal Emergency Management Agency's U.S. Fire Administration. The bill would raise the amount previously authorized for FY 2002 from \$300 million to \$600 million, and set authorizations of up to \$800 million in FY 2003 and \$1 billion in FY 2004. The Administration did not request an increase in the authorized level.

Hostile Fire Pay. S. 1438 authorizes a new pay rate for civilian Federal employees who are exposed to hostile fire or mines, or who are in imminent danger of such exposure. The pay would be \$150 per month (the same rate as a similar authority for military personnel) for the month employees are exposed, and is retroactive to September 11, 2001.

Retention of Travel Promotional Items. The enrolled bill authorizes Federal employees, members of the Foreign Service, military members, and their family members to retain for personal use promotional items (e.g., frequent flyer miles) received as a result of using travel or transportation services paid for by the Federal Government or under certain other circumstances.

Federal Prison Industries (FPI). The enrolled bill requires DoD to conduct market research to determine if FPI products and delivery schedules are comparable to those of the private sector. If the Secretary determines they are not, then DoD shall compete the bids for procurement of these items.

Reporting Requirements. S. 1438 includes over 90 reporting requirements, including those highlighted above to Congress (primarily to the House and Senate Armed Services Committees) on subjects ranging from the missile defense plans and activities to the implementation of recommendations of the acquisition 2005 task force.

FY 2002 Authorizations by Appropriation Category
(Total Discretionary and Mandatory Budget Authority in \$ billions)

	<u>Request</u>	<u>S. 1438</u>	<u>Difference</u>
DoD-Military (051)			
Military Personnel	82.3	82.3	0.0
Operations and Maintenance	125.9	123.9	-2.0
Procurement	61.6	62.4	0.8
Research, Development, Test and Evaluation *	47.4	46.5	-0.9
Military Construction	5.9	6.4	0.5
Family Housing	4.1	4.1	0.0
Revolving Funds	2.3	2.1	-0.2
Unallocated for Missile Defense (MD) or Counter- Terrorism Funds*	\$1.3b for MD incl..above]	1.3	1.3
Other	<u>-1.7</u>	<u>-1.7</u>	<u>0.0</u>
Total DoD-Military	327.8	327.3	-0.5
 DoE and Related Programs	 14.2	 14.4	 0.2
Other Defense	1.5	1.7	0.2
 Total National Defense Function (050)	 343.5	 343.4	 -0.1

* S. 1438 requires a Presidential determination to allocate these funds for either activity. Once a determination is made, S. 1438 allocations by major category would be adjusted. If amounts are provided for Missile Defense, RDT&E would be increased.