

George W. Bush Presidential Library

Collection: Executive Clerk, Office of the

Series: Saunders, G. Timothy (Tim) – Bill Files

Folder Title: 12/28/2001 [S. 1438] [2]

Withdrawn/Redacted Material

The George W. Bush Library

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	Routing Memo	[Statement by the President] - To: Harriet E. Miers - From: Andy Card	1	12/21/2001	P5;
004	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
005	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
006	Outline	[Other Major Provisions of S. 1438 - Attachment A] - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;

COLLECTION TITLE:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

12/28/2001 [S. 1438] [2]

FRC ID:

781

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]

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
007	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
008	Routing Memo	[Statement by the President] - To: Harriet E. Miers - From: Alberto Gonzales	1	12/21/2001	P5;
009	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
010	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
011	Memorandum	National Defense Authorization Act for Fiscal Year 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
012	Statement	National Defense Authorization Act for Fiscal Year 2002	1	12/28/2001	Transferred

COLLECTION TITLE:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

12/28/2001 [S. 1438] [2]

FRC ID:

781

RESTRICTION CODES

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

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

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

Deed of Gift Restrictions

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

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

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

WHITE HOUSE STAFFING MEMORANDUM

Date: 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] [2]

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]

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.

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] [2]

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]

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.

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.

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	12/21/2001	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] [2]

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]

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] [2]

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]

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. |||

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

01 DEC 26 AMB:26

	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.

no comments

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] [2]

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]

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.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Outline	[Other Major Provisions of S. 1438 - Attachment A] - 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] [2]

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]

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.

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.

OK

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] [2]

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]

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.

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.

SS/ RM NO. 505261

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.

NO COMMENT

RESPONSE:

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



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: Enrolled Bill – National Defense Authorization Act
for FY 2002

The Office of the Vice President has reviewed the above-referenced draft and concurs in the recommendation to sign the enrolled bill.

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	12/21/2001	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] [2]

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]

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] [2]

FRC ID:

781

OA Num.:

732

NARA Num.:

1458

RESTRICTION CODES

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

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

P1 National Security Classified Information [(a)(1) of the PRA]

P2 Relating to the appointment to Federal office [(a)(2) of the PRA]

P3 Release would violate a Federal statute [(a)(3) of the PRA]

P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]

P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]

P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.

B. Closed by statute or by the agency which originated the document.

C. Closed in accordance with restrictions contained in donor's deed of gift.

b(1) National security classified information [(b)(1) of the FOIA]

b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

b(3) Release would violate a Federal statute [(b)(3) of the FOIA]

b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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.

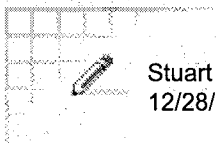
Federal Prison Industries (FPI). The enrolled bill requires DoD to conduct market research to determine if FPI products and delivery schedules are comparable to those of the private sector. If the Secretary determines they are not, then DoD shall compete the bids for procurement of these items.

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.

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.



Stuart W. Bowen
12/28/2001 03:36:33 PM

Record Type: Record

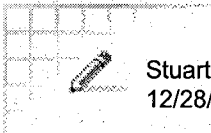
To: Sherman A. Williams/WHO/EOP@EOP

cc:

Subject: def auth statement correction

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.

New last paragraph



Stuart W. Bowen
12/28/2001 03:36:33 PM

Record Type: Record

To: Sherman A. Williams/WHO/EOP@EOP

cc:

Subject: def auth statement correction

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.

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

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

THE WHITE HOUSE,

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.

6/9/01/OMB
edits
12/26/01

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.

7 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~~1114~~, employees fully observe applicable principles of ethics in ^{that} 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~~^{the} 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^{the} 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~~^{the} 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~~^{the} to avoid efforts to enact secret law as part of future defense authorization acts.

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

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

THE WHITE HOUSE,

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] [2]

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]

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.

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

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

THE WHITE HOUSE,

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] [2]

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 advice 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]

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.

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	☐	☐
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, 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.

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.

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.

Bills Received at the White House

Date received and
notification to OMB: **12/20/2001**
Last day for action: **1/1/2002**

S.1438

Official Title	
An Act to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.	<i>Signed 12/28</i>

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.

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.

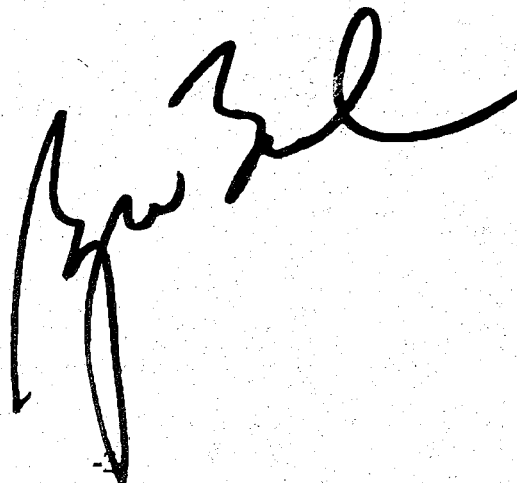
Section 1116 of the Act authorizes Federal agency employees to retain and make personal use of promotional items such as frequent flyer miles, upgrades or access to carrier clubs or facilities received as a result of certain official travel. Agency regulations will ensure that, in connection with implementation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

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. 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 "G. W. Bush", is written over the bottom portion of the text.

STATEMENT BY THE PRESIDENT

THE PRESIDENT HAS SEEN

12-28-01

after 1438

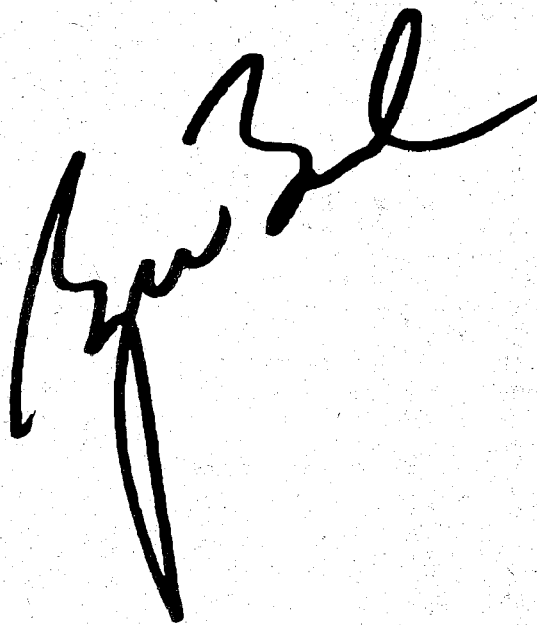
Today, I have signed into law H.R. 2883, the "Intelligence Authorization Act for Fiscal Year 2002." The Act authorizes appropriations to fund United States intelligence activities, including activities essential to success in the war against global terrorism. Regrettably, one provision of the Act falls 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, is written over the signature line.

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

sources 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.

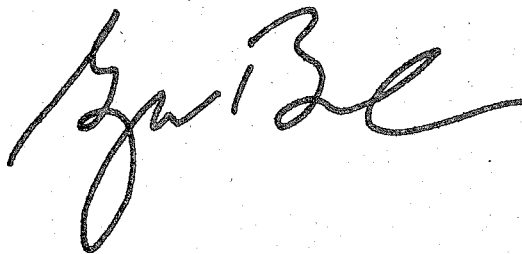
Section 1116 of the Act authorizes Federal agency employees to retain and make personal use of promotional items such as frequent flyer miles, upgrades, or access to carrier clubs or facilities received as a result of certain official travel. Agency regulations will ensure that, in connection with implementation of section 1116, employees fully observe applicable principles of ethics in Government and regulations that 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 the 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 the 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, the 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 dark ink, appearing to read "GWB", is centered on the page. The signature is fluid and cursive, with the letters "G", "W", and "B" being prominent and connected.

THE WHITE HOUSE,

December 28, 2001.

Preservation Copy - George W. Bush Handwriting

OFFICE OF THE EXECUTIVE CLERK
TRACKING SHEET FOR PRESIDENTIAL DOCUMENTS

TITLE: S. 1438 - National Defense Authorization Act
for Fiscal Year 2002

LDA 1/1/2002

TYPE DOCUMENT:

PROCLAMATION

LETTER(S)

EXECUTIVE ORDER

MESSAGE TO THE CONGRESS/SENATE

MEMORANDUM

STATEMENT BY THE PRESIDENT

DECISION MEMORANDUM

SIGNING STATEMENT

DETERMINATION (numbered)

TREATY/CONVENTION/AGREEMENT, etc.

OTHER: _____

RECEIVED: (Advance: 12/21/01 Time: 8:41 a.m./p.m.)
In final: 12/26/01 Time: 5:10 a.m./p.m.

SENT TO CORRESPONDENCE FOR TYPING IN FINAL:

(Advance: 1/1/01 Time: _____ a.m./p.m.)
In final: 12/26/01 Time: 5:10 a.m./p.m.

TO HARRIET MIERS' OFFICE:

(For staffing: 12/26/01 Time: 4:30 a.m./p.m.)
In final: 12/26/01 Time: 5:15 a.m./p.m.
12/28/01 4:00 pm

*INFO, INCLUDING STENCIL AND DISC, TO PRESS OFFICE:

Date: 12/28/01 Time: 4:07 a.m./p.m.
POSTED: 12/28/01 Time: 4:38 a.m./p.m.

NOTIFICATIONS:

(Person/time)

(Person/time)

(Person/time)

(Person/time)

Waiting for
Bills from
Texas

-- Desk Officer;
25.

Legislative Affairs
3)

OTHER INFORMATION:

Note: Stuart will FedEx the orig.
Signing Statement to Harriet
in Texas. 12/26

12/28/2001: Final was changed by Stuart and Harriet.
Last Paragraph.

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, two thousand and one*

An Act

To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

- Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Defense Inspector General.
Sec. 106. Chemical Agents and Munitions Destruction, Defense.
Sec. 107. Defense Health Program.

Subtitle B—Army Programs

- Sec. 111. Repeal of limitations on bunker defeat munitions program.
Sec. 112. Extension of pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
Sec. 113. Limitations on acquisition of interim armored vehicles and deployment of interim brigade combat teams.

Subtitle C—Navy Programs

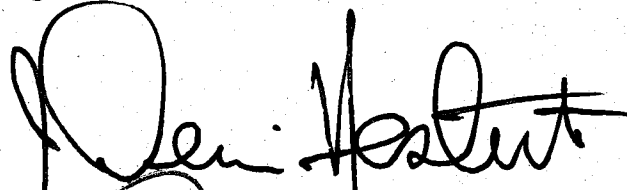
- Sec. 121. Virginia class submarine program.

THE WHITE HOUSE

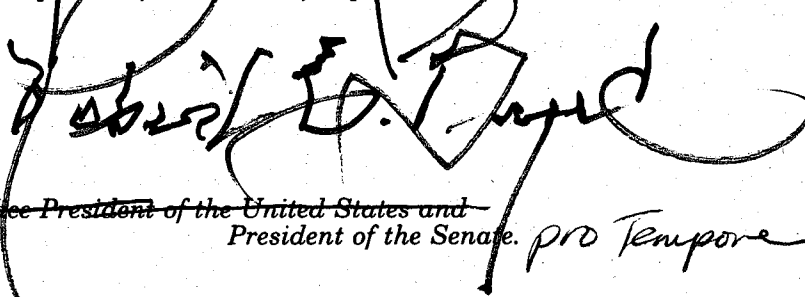
"(1) IN GENERAL.—The cash deposited into the deposit fund established by subsection (a) may not be withdrawn without the consent of the Secretary.

"(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the deposit fund in accordance with the terms of the agreement with the obligor under subsection (b).

"(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the deposit fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation."



Speaker of the House of Representatives



~~Vice President of the United States and~~

President of the Senate. pro Tempore

APPROVED

DEC 28 2001

