



# VETERANS

A TIMELINE (2001–2008)

DOMESTIC POLICY COUNCIL

# THE WHITE HOUSE

WASHINGTON

## MEMORANDUM

THROUGH: KARL ZINSMEISTER

FROM: STACIE MAASS

SUBJECT: VETERANS

President Bush's commitment to the men and women who serve or have served in our military is unwavering, and he has worked to ensure that those who enter into harm's way in defense of our Nation receive the highest quality of care and services that we can provide.

During the 2000 Presidential Campaign, then-Governor Bush was critical of the complicated and bureaucratic veteran health care system and disability claims process. As promised, upon taking office, President Bush and his Administration focused on improving the health care provided to veterans and decreasing the processing time and backlog of veterans' benefits claims.

To ensure quality and timely benefit claims processing, more than 1,000 full-time employees were added to the Veterans Benefits Administration (VBA) in the first 180 days of the Administration and the President's first budget (FY 2002) contained a 13% increase to the VBA to address the timeliness and accuracy of claims processing.

Further honoring the President's commitments to veterans, two tasks forces were created to address health care and disability claim concerns. In the spring of 2001, the Department of Veterans Affairs (VA) established a VA Claims Processing Task Force to address the backlog and improve the accuracy of claims, and the President announced the creation of the Task Force to Improve Veterans Health Care to strengthen coordination between the VA and the Department of Defense (DOD). Secretary Principi accepted the Claims Task Force's report in the fall of 2001 and immediately began implementing the recommendations to improve the benefit claims process.

Because of these efforts there has been a dramatic decrease in the processing time of disability claims. The VA is working to reduce the average length of time to process a veteran's disability claim from the high of 230 days in 2002 to less than 180 days currently. Additionally, the accuracy rate, which is primarily based on the veteran receiving the correct amount of money (no overpayment or underpayment), has increased from 78 percent in FY 2001 to 88 percent in FY 2007, and the target for FY 2008 is 90 percent.

In 2002, President Bush repealed a century-old provision prohibiting combat-injured and severely disabled veterans from receiving both their military retirement pay and their VA disability compensation. The Administration initially opposed the provision due its high cost

and the Administration's desire for a balanced budget, but it was included in the FY 2003 National Defense Authorization Act, which the President signed.

In 2003, Secretary Principi suspended health care enrollment for new Priority 8 veterans - veterans who have incomes above established thresholds and medical conditions that are not service-related (the lowest priority group). The decision was based on the need to reduce waiting times for current users and new enrollees in higher priority groups that consist of veterans with service-connected injuries, lower-income veterans, and special needs veterans. Although the decision was heavily criticized by veterans groups and congressional members, the Administration believed and continues to believe that the VA medical care system should focus on its core population - veterans with service-connected disabilities, lower-incomes, special needs, and those returning from combat.

During the President's first term, the President signed into law historic increases in VA funding, and spending for veterans increased twice as much as it did in the eight years of the previous Administration. The Administration successfully carried out the President's commitment to increasing the quality and timeliness of care and services provided to veterans, as well as modernizing and expanding the kinds of services provided to veterans closer to their homes. The President had signed into law legislation authorizing new and expanded benefits for disabled veterans, surviving spouses, and children and committed to the largest expansion of the national cemetery system since the Civil War, honoring those who defended our Nation.

For the first few years of the second term, as the war in Afghanistan and Iraq continued and casualties increased, DOD and VA worked hard to adapt their medical and disability systems to this new demand. Medical advances, mobile medical equipment in theater, and training were saving the lives of service members who in previous wars would not have survived, and six years of steady increases in funding for veterans health care ensured that these men and women were well cared for when they left military service. But many of these severely wounded service members who had expected to spend their careers in the military, were suddenly forced to deal with unplanned and unwanted career changes in addition to their injuries. In addition, the sheer number of service members returning with injuries made the already complicated and bureaucratic transition between active duty care and care as a veteran even slower. The frustration of service members and their families was brought to light in February 2007, when the *Washington Post* began publishing articles identifying serious concerns about neglect, bureaucratic delays, and dilapidated building conditions facing returning Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) service members at Walter Reed Army Medical Center.

The President took seriously the concerns raised in the *Washington Post* articles and acted swiftly by issuing in early March 2007 an Executive Order establishing a Commission on Care for America's Returning Wounded Warriors (Commission) and a Task Force on Returning Global War on Terror Heroes (Task Force). The bipartisan commission, led by Senator Bob Dole and former Health and Human Services Secretary Donna Shalala, examined returning wounded service members' transition from active duty to civilian life and evaluated the delivery of health care, disability, traumatic injury, education, employment, and other benefits and

services to returning wounded service members. The Interagency Task Force, chaired by VA Secretary Jim Nicholson, evaluated the current Federal response to the immediate needs of our returning OEF/OIF service members and veterans, to make sure they receive the care and services they deserve.

Responding to the President's call for immediate action, the Task Force submitted its final report within 45 days of the Executive Order, making 25 recommendations that did not require additional appropriations or statutory changes, focused on improving the delivery of veteran services and increasing awareness of available benefits among service members and their families. Recommendations included having VA health care facilities screen all OEF/OIF patients for mild and moderate traumatic brain injury (TBI) and expanding VA's access to DOD records to improve the transfer of service member patients requiring care in VA health facilities. Federal agencies began implementing actions immediately and continue to coordinate efforts to reach veterans.

In July 2007, the Commission submitted to the President its Report containing six recommendations: 1) Modernize and improve the disability and compensation systems; 2) Aggressively prevent and treat post-traumatic stress disorder (PTSD) and TBI; 3) Significantly strengthen support for families; 4) Immediately create comprehensive recovery plans to provide the right care and support at the right time in the right place; 5) Rapidly transfer patient information between the DOD and VA; and 6) Strongly support Walter Reed by recruiting and retaining first-rate professionals through 2011. DOD and VA immediately began acting on the recommendations that they could implement administratively and began drafting legislation for those that required congressional action.

By the fall of 2007, nearly all of the Dole/Shalala Commission recommendations were either implemented or in the process of being implemented. The Departments created the Senior Oversight Committee (SOC), led by Deputy Secretaries England and Mansfield, to coordinate the care and services given to our returning OEF/OIF veterans and to implement the recommendations of commissions like the Dole/Shalala Commission.

DOD, in cooperation with VA, established the Defense Center of Excellence (DCoE) for Psychological Health and TBI, a collaborative global effort to optimize psychological health and TBI, which includes helping to standardize the diagnosis and treatment of TBI and PTSD, two common conditions experienced by returning OEF/OIF service members. DOD now performs pre- and post-deployment screenings on all deploying service members for PTSD to ensure service members with PTSD are diagnosed and treated early and do not have to proactively seek help. DOD and VA are also working to decrease the stigma of mental health conditions through awareness and education and by providing mental health care through its primary care facilities.

Both VA and DOD are taking steps to recruit and retain health care professionals to adequately provide quality care to service members and veterans. The Departments have established the Federal recovery coordinator program for seriously injured service members to seamlessly guide and support them through medical, rehabilitation, and disability programs. DOD and VA are

coordinating in unprecedented ways on the care and services provided to our service members and veterans, making sure the transition from active duty to civilian life is seamless.

In October 2007, the Administration submitted to Congress legislation to implement the most complex and controversial Commission recommendation – the modernization of the disability compensation system. The Administration’s proposal would replace the bureaucratic and complicated system whereby both DOD and VA determine disability and provide disability payments. Under the new system, wounded warriors would undergo a single medical exam that would yield a DOD annuity payment for all service members separated or retired, as well as a VA rating that determines and provides compensation for disability. Additionally, the VA disability rating schedule would be updated to reflect modern concepts of medicine and disability due to the evolving nature of warfare and advances in trauma care producing complex injuries as well as medical advances (e.g., high-tech prosthetics) not captured in the decades-old schedule. Finally, under the proposal, incentives would be provided to encourage participation in rehabilitation and education programs. Congress has failed to consider the legislation largely because the leadership of veteran service organizations believe that modernization could mean benefit reductions, and because they cannot accept a disability system for this generation that older veterans cannot access. Due to Congressional inaction, VA and DOD initiated a disability evaluation system (DES) pilot in November 2007, which includes one medical examination and a single disability rating, and in January 2008 awarded a contract for the development of information to be used to modernize VA’s disability rating schedule. As of September 2008, 712 service members have been referred into the pilot. The pilot was further expanded during the fall of 2008, setting up streamlined disability evaluations at 19 military installations, representing all military departments.

In January 2008, the President signed into law legislation that increased from two to five years both a combat veteran’s eligibility for free medical care from the VA and time to enroll for lifetime VA medical care. Additionally, the legislation amended the Family Medical Leave Act (FMLA) to permit family members of injured service members to take additional time away from their jobs to care for their loved one without the threat of losing their jobs. In 2008, President Bush signed legislation significantly expanding service members and veterans’ educational benefits. The legislation also allowed service members to be able to transfer their unused educational benefits to their spouse and children, which the President called for in his 2008 State of the Union Address. Secretary Gates expressed concern that early drafts of the educational benefit expansion did not support the volunteer force, undercut the military’s ability to retain service members, and failed to include transferability of unused education benefits, a priority of those in uniform. Ultimately, transferability was added, and the Administration supported the legislation.

In November 2008, Secretary Gates designated November 2008 as “Warrior Care Month” to communicate DOD’s commitment to quality care for the Nation’s service members and their families. DOD worked with VA and other Federal and State Agencies and community partners to increase the awareness of programs and resources available to wounded, ill and injured service members, their families, and those who care about them. During this month, DOD launched the National Resource Directory (NRD), a web-based “yellow book” created with the help of DOL

and VA for wounded, ill and injured service members, veterans, their families, families of fallen and those who support them.

During his term in office, President Bush increased funding for veterans by more than 98% and increased VA's medical care budget by 115%, the highest level of support in American history. Since 2001, President Bush's budgets have helped nearly 2 million more veteran patients enroll in the VA health system, including 370,000 returning service members from Iraq and Afghanistan. The President made clear from the time he stepped into the Oval Office that the veteran health care system needs to be modernized and the disability claims system needs to be more accurate and timely. The President has committed more than \$6 billion to modernize and expand VA medical facilities so more veterans can get quality care where they live and has provided more than a billion dollars since 2007 to VA to support traumatic brain injury and post-traumatic stress disorder research and treatment. Under the President's leadership, the VA expanded resources for patients with multiple complex injuries. The VA's polytrauma system of care has been expanded to 22 network sites and clinic support teams around the country to provide state-of-the-art treatment to injured veterans at facilities closer to their homes. Since 2001, the VA has opened 280 new community-based clinics nationwide. Over the past eight years, the total outpatient visits increased from 44 million when the President took office to 70 million today. Additionally, the Administration continues to promote non-institutional long-term care that allows veterans to live and be cared for near or in the comfort and familiar settings of their homes surrounded by their families. Finally, VA will spend more than \$330 million on programs specifically targeted to assist homeless veterans in FY 2009 -- more than double the funding level when the President took office. VA estimates that there are currently 154,000 homeless veterans, a nearly 40 percent reduction from the 2001 estimate of 250,000.

Under the President's leadership, the Administration has refocused resources and implemented a priority scheduling system to ensure that returning combat veterans and core-mission veterans are first in line. The Bush Administration has worked tirelessly to change the culture at the VA—not only in the way it provides services but how it views veteran and their disabilities or conditions—helping veterans build lives of hope, promise, and dignity and expanding grants to help homeless veterans.

## Veterans 2001- 2008

TAB

### 2001

May 21

1

A memorandum is delivered to the President on the creation of the Task Force to Improve Veterans Health Care Delivery for Our Nation's Veterans to improve coordination between the Department of Veterans Affairs (VA) and the Department of Defense (DOD). During the 2000 Presidential Campaign, then-Governor Bush committed to create, if elected, a task force to ensure that veterans receive the quality care they deserve. The memorandum describes the structure of the Task Force and recommends that the Task Force's purview include both veterans and active duty military.

May 28

2

The President announces the creation of the Task Force to Improve Veterans Health Care Delivery for Our Nation's Veterans.

Nov. 26

3

The President signs the FY 2002 Departments of VA/HUD, and Independent Agencies Appropriations Act (H.R. 2620) into law, providing an 8.4 percent increase from FY 2001 to FY 2002 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill.

### 2002

Aug. 2

4

The President signs the FY 2002 Supplemental Appropriations for Further Recovery from and Response to Terrorist Attacks on the United States (H.R. 4775), which provided supplemental funding for VA health care services (e.g. costs associated with newly enrolled higher-income veterans). Memorandum for the President describes the enrolled bill.

Nov. 6

5

The President issues a proclamation for Veterans Day, urging Americans to recognize the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers.

Dec. 2

6

The President signs the FY 2003 National Defense Authorization Act (H.R. 4546), which contains a provision providing a supplemental benefit to disabled retirees with 20 years of service without formally repealing the prohibitions against the concurrent receipt of military retired pay and veterans' disability compensation. Concurrent receipt was thereby effectively accomplished without changing the legal prohibition against it. The Administration opposed the full concurrent receipt of military retired pay and veterans disability compensation for military retirees based the long-standing principle that no one should be able to receive concurrent retirement benefits and disability benefits based upon the same service.

## 2003

Jan. 17

7

Secretary Principi suspended health care enrollment for new Priority 8 veterans - veterans who have incomes above established thresholds and medical conditions that are not service-related (the lowest priority group). The decision was based on the need to reduce waiting times for current users and new enrollees in higher priority groups that consist of service-connected, lower-income, and special needs veterans.

Feb. 20

8

The President signs the FY 2003 Consolidated Appropriations Act (H. J. Res. 2) into law, providing a 5.4 percent increase from FY 2002 to FY 2003 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill.

March 25

9

Secretary Principi meets with the President to discuss and provide updates on issues of importance to the VA, veteran service organizations and veterans. A memorandum is delivered to the President outlining issues of importance, including: the increasing demand by veterans for health care, the new VA policy suspending new Priority 8 enrollees, the coverage of prescription drugs prescribed by non-VA-affiliated physicians, the status of the Capital Asset Realignment for Enhanced Services (CARES) process to modernize VA's health care facilities, and the accuracy and backlog of the disability claims process.

Apr. 16

10

The President signs the FY 2003 Emergency Wartime Supplemental Appropriations Act (H.R. 1559) into law, which includes \$100 million

for the VA for processing disability claims. Memorandum for the President describes the enrolled bill.

May 26

11

The Task Force to Improve Veterans Health Care Delivery for Our Nation's Veterans, created by the President in June 2001, to improve coordination between the Department of Veterans Affairs (VA) and the Department of Defense, submits its final report to the President. The Task Force made various recommendations to increase the cooperation between DOD and VA, many of which the Departments were already pursuing, such as common health information technology standards and joint purchasing of medical supplies and equipment. Other Task Force recommendations include: VA and DOD should implement a single separation physical as a prerequisite to leave the military; the need for a more stable funding structure for the VA (suggesting mandatory funding); and the request that Congress and the Executive Branch address concerns regarding VA's policy suspending health care enrollment of Priority 8 veterans.

Nov. 10

12

The President issues a proclamation for Veterans Day, encouraging all Americans to recognize the valor and sacrifice of our veterans through appropriate ceremonies and prayers.

Nov. 22

13

The President signs the National Defense Authorization Act for FY 2004 (H.R. 1588), which includes a provision authorizing the concurrent payment, phased in over a ten-year period from 2004 through 2013, of military retired pay and veterans' disability compensation for military retirees with 20 years of service and service-connected disabilities rated at 50 percent or more. This legislation repealed the century-old provision prohibiting concurrent receipt for qualified veterans. The Administration initially opposed this provision.

**2004**

Jan. 23

14

The President signs the FY 2004 Consolidated Appropriations Act (H.R. 2673) into law, providing an increase of 17.7 percent from FY 2003 to FY 2004 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill.

May 4

15

A memorandum is delivered to the President to provide an update on VA's CARES process, established to identify the infrastructure needed to care for veterans in the 21<sup>st</sup> century. The CARES process was initiated by the Clinton Administration but accelerated by the Bush Administration. With the use of an independent commission, Secretary Principi released a plan to modernize and better located VA facilities, and end costly maintenance of unneeded and unused facilities.

- Oct. 4 16  
A memorandum is delivered to the President to provide information on the status of VA mental health care, disability claims backlog, health care for National Guard and Reserves, and reemployment rights. The memorandum was in response to media reports criticizing the Administration's efforts with regard to services to service members and veterans.
- Nov. 11 17  
White House issues a Fact Sheet: Honoring the Courage of America's Veterans, highlighting the Administration's accomplishments for veterans and service members for Veterans Day.
- Oct. 13 18  
The President signs the FY 2005 Military Construction Appropriations (H.R. 4837), which contains supplemental funding to the VA for costs resulting from the recent hurricanes.
- Dec. 8 19  
The President signs the FY 2005 Consolidated Appropriations Act, (H.R. 4818), providing a 4.7 percent increase from FY 2004 to FY 2005 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill.
- 2005**
- Aug. 2 20  
The President signs the FY 2006 Department of the Interior, Environment, and Related Agencies Appropriations Act (H.R. 2361), which includes a supplemental appropriation for the VA to meet increased costs in the VA medical care system primarily due to the recent growth in the number of eligible veterans.
- Nov. 10 21

White House issues a Fact Sheet: Honoring America's Veterans, highlighting the Administration's accomplishments for veterans and service members for Veterans Day.

- Nov. 30 22  
The President signs the FY 2006 Military Quality of Life/VA (H.R. 2528) into law, providing an increase of 7.6 percent from FY 2005 to FY 2006 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill.
- 2006**
- Oct. 31 23  
The President issues a proclamation for Veterans Day, encouraging all Americans to recognize the valor and sacrifice of our veterans through ceremonies and prayers.
- 2007**
- Feb. 15 24  
The President signs the FY 2007 4<sup>th</sup> Continuing Resolution (H.J. Res. 20) into law, providing a 10.4 percent increase from FY 2006 to FY 2007 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill.
- Feb. 18 25  
The *Washington Post* publishes an exposé revealing significant shortcomings in the outpatient care and facilities at Walter Reed Army Medical Center (Walter Reed). The article outlines serious concerns about neglect, bureaucratic delays, and dilapidated building conditions facing returning Operation Enduring Freedom/ Operation Iraqi Freedom (OEF/ OIF) veterans at Walter Reed.
- Mar. 1 26  
The President delivers his weekly radio address, focusing on veterans and the situation at Walter Reed.
- Mar. 6 27  
The President issues an Executive Order: Establishing a Commission on Care for America's Returning Wounded Warriors and a Task Force on Returning Global War on Terror Heroes. The bipartisan commission is charged with examining returning wounded service members' transition from active duty to civilian life and evaluating the delivery of health care, disability, traumatic injury, education, employment, and other benefits and services to returning wounded service members. The Interagency Task Force, chaired by Secretary

Jim Nicholson, is tasked with evaluating the current Federal response to the immediate needs of our returning OEF/ OIF veterans, making sure they are receiving the care and services they deserve. The White House releases a Fact Sheet: Taking Care of America's Returning Wounded Warriors, announcing the work of the Commission and reinforcing the Administration's commitment to veterans.

The President delivers a speech at American Legion in Washington DC, reinforcing his commitment to our Nation's military and the care of its returning wounded warriors.

- Mar. 7 28  
The President meets with Senator Bob Dole and former Health and Human Services Secretary Donna Shalala, Co-chairs of the Commission on Care for America's Returning Wounded Warriors (Dole/Shalala Commission) at the White House and briefly attends the first meeting of the Task Force on Returning Global War on Terror Heroes (Interagency Task Force) chaired by Secretary Nicholson, which was held at the White House.
- Mar. 16 29  
The President meets with Dole/Shalala Commission members at their first Commission meeting.
- Mar. 30 30  
The President makes remarks to troops during a visit at Walter Reed Army Medical Center, commending the dedication of the medical professionals and staff and identifying the actions he has taken to ensure the care and services provided to the men and women of the military are the quality they deserve.
- Apr. 23 31  
The President receives a briefing by Secretary Nicholson on the recommendations of the Interagency Task Force Report. The Report's 25 recommendations focus on improving the delivery and coordination of veteran services and increasing awareness of available benefits among service members and their families.
- Apr. 24 1  
Secretary Nicholson publicly releases the Interagency Task Force on Returning Global War on Terror Heroes Report. The President commends the work of the Task Force and directs the Secretary to coordinate with all agencies implementing the recommendations.
- May 3 2

DOD and VA establish the Senior Oversight Committee (SOC) to better coordinate the care and services given to our returning OEF/OIF veterans. DOD Deputy Secretary England issues a letter to the Secretaries of the Military Departments.

May 25

3

The President signs the FY 2007 U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act (H.R. 2206), which included a supplemental appropriation for the VA. The supplemental includes \$1.8 billion for combat-specific medical services and research to meet increased costs in the VA medical care system primarily due to the growth in number of eligible veterans.

Jul. 23

4

A memorandum is delivered to the President providing information on the Dole/Shalala Commission's recommendations (due at the end of July) and other actions taken by the Administration to address deficiencies in the care and services provided to our wounded warriors. Other efforts include the establishment of an Independent Review Group by Secretary Gates to assess the rehabilitative care and administrative processes at Walter Reed, National Naval Medical Center, and other DOD facilities if necessary.

Jul. 25

5

The President receives a briefing by the Co-Chairs of the President's Commission on Care for America's Returning Wounded Warriors. The Co-Chairs provide the President with their final report. The Report contains 6 recommendations: 1) Modernize and improve the disability and compensation systems; 2) Aggressively prevent and treat post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI); 3) Significantly strengthen support for families; 4) Immediately create comprehensive recovery plans and recovery coordinators to provide the right care and support at the right time in the right place; 5) Rapidly transfer patient information between the Departments of Defense (DoD) and Veterans Affairs (VA); and 6) Strongly support Walter Reed by recruiting and retaining first-rate professionals through 2011.

The President later makes a statement tasking the Secretaries of Defense and VA to implement the findings as soon as possible.

Jul. 30

6

VA begins a suicide hot line to ensure veterans with emotional crises have twenty-four-hour access to trained professionals.

Sept. 17

7

A memorandum is delivered to the President to provide an update on the Administration's actions taken to implement the Dole/Shalala Commission recommendations to better assist injured service members through the transition to military service or civilian life. The Administration is implementing all the recommendations that can be done administratively and is drafting legislation to implement those that require statutory changes.

Oct. 3

8

The Veterans' Disability Benefits Commission, established by Congress in 2004, to conduct an in-depth analysis on the services and benefits available to veterans and service members, releases its final report. The Commission's findings support many of the findings and recommendations of the Dole/Shalala Commission.

Oct. 16

9

The President meets with Senator Dole and Secretary Shalala to discuss the Administration's actions to implement the Commission's recommendations and its legislative package. The President delivers remarks announcing the Administration's efforts to implement the Commission's recommendations and the transmission of a legislative package to Congress containing the Dole/Shalala Commission recommendations requiring statutory changes. The Administration's legislative package includes language implementing the most complex and controversial Commission recommendation – the modernization of the disability compensation system. Under the proposal, a wounded warrior would undergo a single medical exam that would yield a DOD annuity payment, and a VA rating that determines and provides compensation for disability, thus replacing the current system requiring exams and disability payments by both Departments. The legislation would require the VA disability rating schedule be updated to reflect modern concepts of medicine and disability and that incentives be provided to encourage participation in rehabilitation and education programs.

The White House issues a Fact Sheet: Ensuring Our Wounded Warriors Get the Best Possible Care.

Oct. 31

10

The White House releases a proclamation in honor of Veterans Day, 2007.

Nov. 8

11

The President makes remarks during his visit with Wounded Warriors at the Center for the Intrepid, highlighting the Administration's efforts

to implement the Dole/Shalala recommendations, and calls on Congress to pass the Administration's legislative package containing the Dole/Shalala recommendations requiring congressional action.

Nov. 29

12

VA and DOD commence a single disability examination pilot for wounded warriors. This initiative is designed to eliminate the duplicative and often confusing elements of the current disability processes and was a recommendation of the Dole/Shalala Commission. Key features of the disability evaluation system (DES) pilot include one medical examination and a single-sourced disability rating.

Dec. 26

13

The President signs the FY 2008 Consolidated Appropriations Act (H.R. 2764) into law, providing a 17.5 percent increase from FY 2007 to FY 2008 appropriated amounts for the VA. Memorandum for the President describes the enrolled bill; new provisions include \$75 million for 7,500 new vouchers for homeless veterans.

**2008**

Jan. 3

14

VA publishes in the Federal Register a proposed rule updating its rating schedule to better and more adequately compensate veterans for injuries associated with the current war on terror-- traumatic brain injury and scars/burns; this is a Dole/Shalala Commission recommendation.

Jan. 28

15

The President signs the National Defense Authorization Act of 2008 into law, which authorizes enhanced care and benefits for wounded warriors (H.R. 4986). Provisions include increasing from two to five years a combat veteran's eligibility for free VA medical care for most conditions and extending VA dental benefits -- previously limited to 90 days after discharge for most veterans -- to 180 days.

Jan. 30

16

VA awards a contract for the development of information to be used to modernize VA's disability rating schedule, which is used to determine veterans disability payments; this is a recommendation of the Dole/Shalala Commission. The VA contract will examine the nature and feasibility of making "transition payments" and provide information "quality of life" payments.

- Feb. 4 17  
The President's FY 2009 Budget for the Department of Housing and Urban Development (HUD) seeks \$75 million to provide rental assistance to veterans, doubling the number of vouchers available for homeless veterans.
- Apr. 16 18  
HUD and the VA announce permanent housing for an estimated 10,000 homeless veterans based on the Consolidated Appropriations Act of 2008 signed by the President. New York City will receive approximately \$9.4 million to permanently house more than 1,000 homeless veterans.
- Apr. 24 19  
A memorandum was prepared for the President in response to his request for information on his Administration's actions to address Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). The memorandum identifies DOD and VA's actions, many of which were inspired by the Dole/ Shalala Commission recommendations.
- Jun. 30 20  
The President signs the FY 2008 Supplemental Appropriations Bill (H.R. 2642), which contains an expansion of service members and veterans' educational benefits and allows service members to transfer their unused educational benefits to their spouse and children.
- Aug. 21 21  
The President signs into law the Housing and Economic Recovery Act of 2008 (H.R. 3221). The new law allows the VA to raise the ceilings on its no-down-payment home loans from the current \$417,000 to as much as \$729,000 and increases the primary grants from \$50,000 to \$60,000 for constructing a new home or modifying an existing home to meet adaptive needs of veterans or active duty service members with certain service-connected disabilities.
- Sept. 23 22  
The VA published in the Federal Register the final rule updating its disability rating schedule for traumatic brain injury and scars/ burns in order to better assess the consequences of these injuries and ensure veterans are properly compensated. The update will apply to all compensation starting October 23, 2008.
- Sept. 30 23

The President signs into law H.R. 2638, the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009," which contains VA's FY 2009 appropriation. With the passage of H.R. 2638, VA's discretionary budget will have increased more than 116 percent since President Bush took office.



THE WHITE HOUSE  
WASHINGTON

May 21, 2001

'01 MAY 21 PM 5:49

MEMORANDUM FOR THE PRESIDENT

FROM: MARGARET LA MONTAGNE

SUBJECT: PRESIDENTIAL TASK FORCE ON HEALTH CARE FOR DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE BENEFICIARIES

**SUMMARY**

During the campaign, you expressed support for the creation of a Veterans Health Care Task Force to identify ways to enhance access to quality care for veterans. After discussing the proposed Task Force with the Department of Veterans Affairs (VA) and the Department of Defense (DoD), we recommend that you expand this to include both VA and DoD beneficiaries. We recommend that you name a Task Force to:

1. Identify ways to improve benefits and services for Department of Veterans Affairs and Department of Defense beneficiaries through better coordination of the activities of the two departments.
2. Review existing barriers and challenges that impede Department of Veterans Affairs and Department of Defense coordination, including budgeting processes, timely billing, cost accounting, information technology, and reimbursement. Identify opportunities to improve such business practices to ensure high quality and cost effective health care for VA and DoD beneficiaries.
3. Identify opportunities for improved resource utilization through partnership to maximize the use of existing Department of Veterans Affairs and Department of Defense resources and infrastructure, including buildings; information technology and data sharing systems; procurement of supplies, equipment, and services; and delivery of care.

**TIMING AND RECOMMENDATIONS**

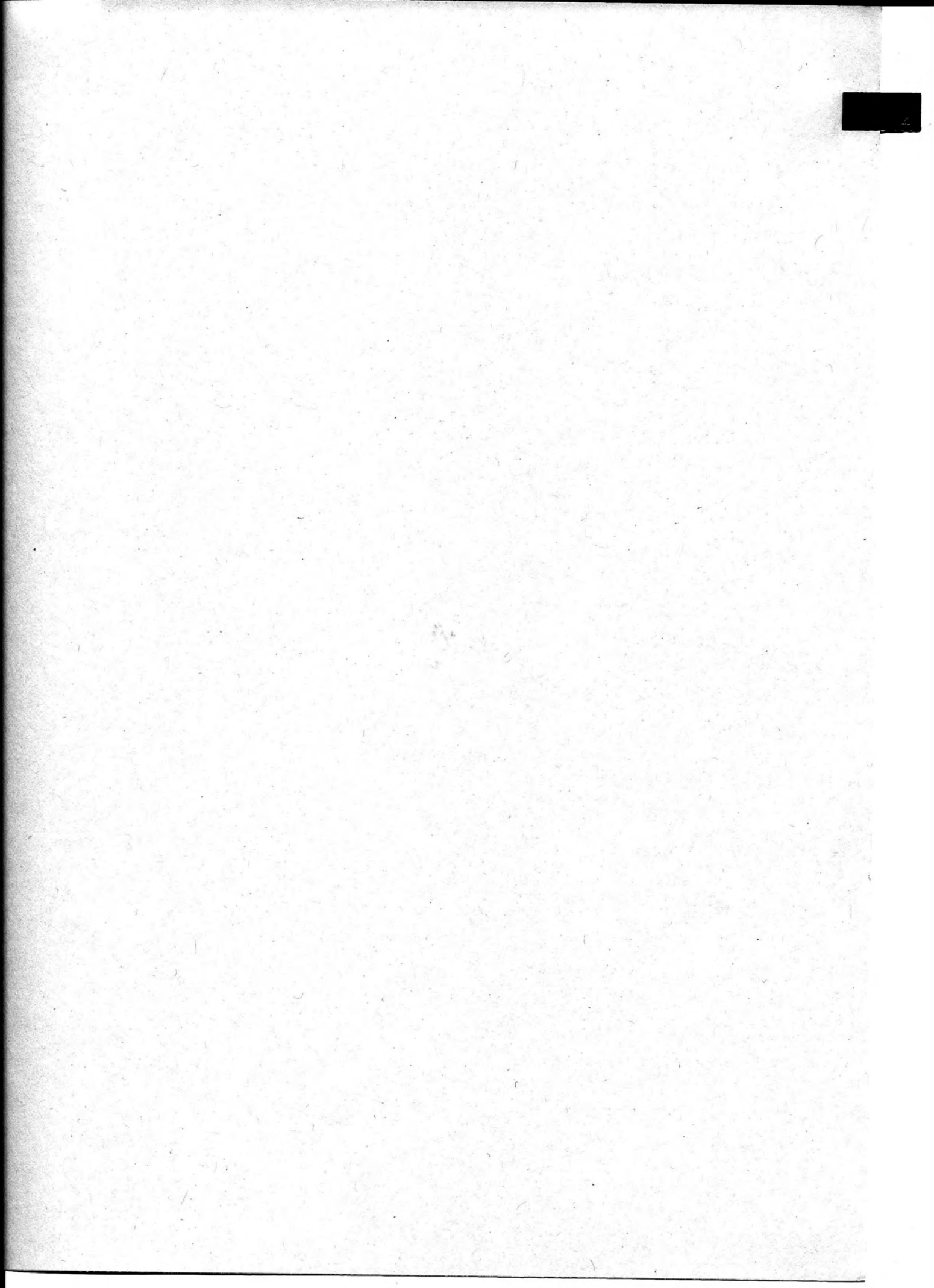
The Task Force should terminate two years from the date of the Executive Order. The Task Force should report its interim findings and recommendations to you at the end of nine months. Additionally, a final report should be issued at the end of the second year of operation.

### **MEMBERSHIP OF THE TASK FORCE**

The Task Force should be comprised of thirteen members who would serve for the duration of the Task Force and two additional members who would serve as Co-Chairs. The Task Force should be comprised of experts in various fields of health care, including quality of care, delivery, and financing, as well as others familiar with the Department of Veterans Affairs and Department of Defense health care systems. Additionally, representatives from veteran and military service organizations should be included.

### **ADMINISTRATION OF THE TASK FORCE**

The Department of Veterans Affairs should provide administrative and financial support to the Task Force. An Executive Director and professional staff should be provided.



## **Executive Order**

### President's Task Force to Improve Health Care Delivery for Our Nation's Veterans

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to provide prompt and efficient access to consistently high quality health care for veterans who have served the Nation, it is hereby ordered as follows:

Section 1. Establishment. There is established the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans (Task Force).

Sec. 2. Membership. The Task Force shall be comprised of 15 members appointed by the President. Two of the 15 members shall serve as co-chairs of the Task Force. The Task Force membership shall include health care experts, officials familiar with Department of Veterans Affairs and Department of Defense health care systems, and representatives from veteran and military service organizations.

Sec. 3. Mission. The mission of the Task Force shall be to:

- (a) identify ways to improve benefits and services for Department of Veterans Affairs beneficiaries and Department of Defense military retirees who are also eligible for benefits from the Department of Veterans Affairs through better coordination of the activities of the two departments;
- (b) review barriers and challenges that impede Department of Veterans Affairs and Department of Defense coordination, including budgeting processes, timely billing, cost accounting, information technology, and reimbursement. Identify opportunities to improve such business practices to ensure high quality and cost effective health care; and
- (c) identify opportunities for improved resource utilization through partnership between the Department of Veterans Affairs and the Department of Defense to maximize the use of resources and infrastructure, including: buildings, information technology and data sharing systems, procurement of supplies, equipment and services, and delivery of care.

Sec. 4. Administration.

- (a) The Department of Veterans Affairs shall, to the extent permitted by law, provide administrative support and funding for the Task Force.
- (b) Members of the Task Force shall serve without any compensation for their work on the Task Force. Members appointed from among private citizens of the United States, however, while engaged in the work of the Task Force, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701-5707), to the extent funds are available.
- (c) The co-chairs of the Task Force shall appoint an Executive Director to coordinate administration of the Task Force. To the extent permitted by law, office space, analytical

support, and additional staff support for the Commission shall be provided by executive branch departments and agencies as directed by the President.

(d) The heads of the executive branch departments and agencies shall, to the extent permitted by law, provide the Task Force with information as requested by the co-chairs.

(e) At the call of the co-chairs, the Task Force shall meet as necessary to accomplish its mission.

(f) The functions of the President under the Federal Advisory Committee Act, as amended, except for those in section 6 of that Act, that are applicable to the Task Force, shall be performed by the Department of Veterans Affairs, in accordance with the guidelines that have been issued by the Administrator of General Services.

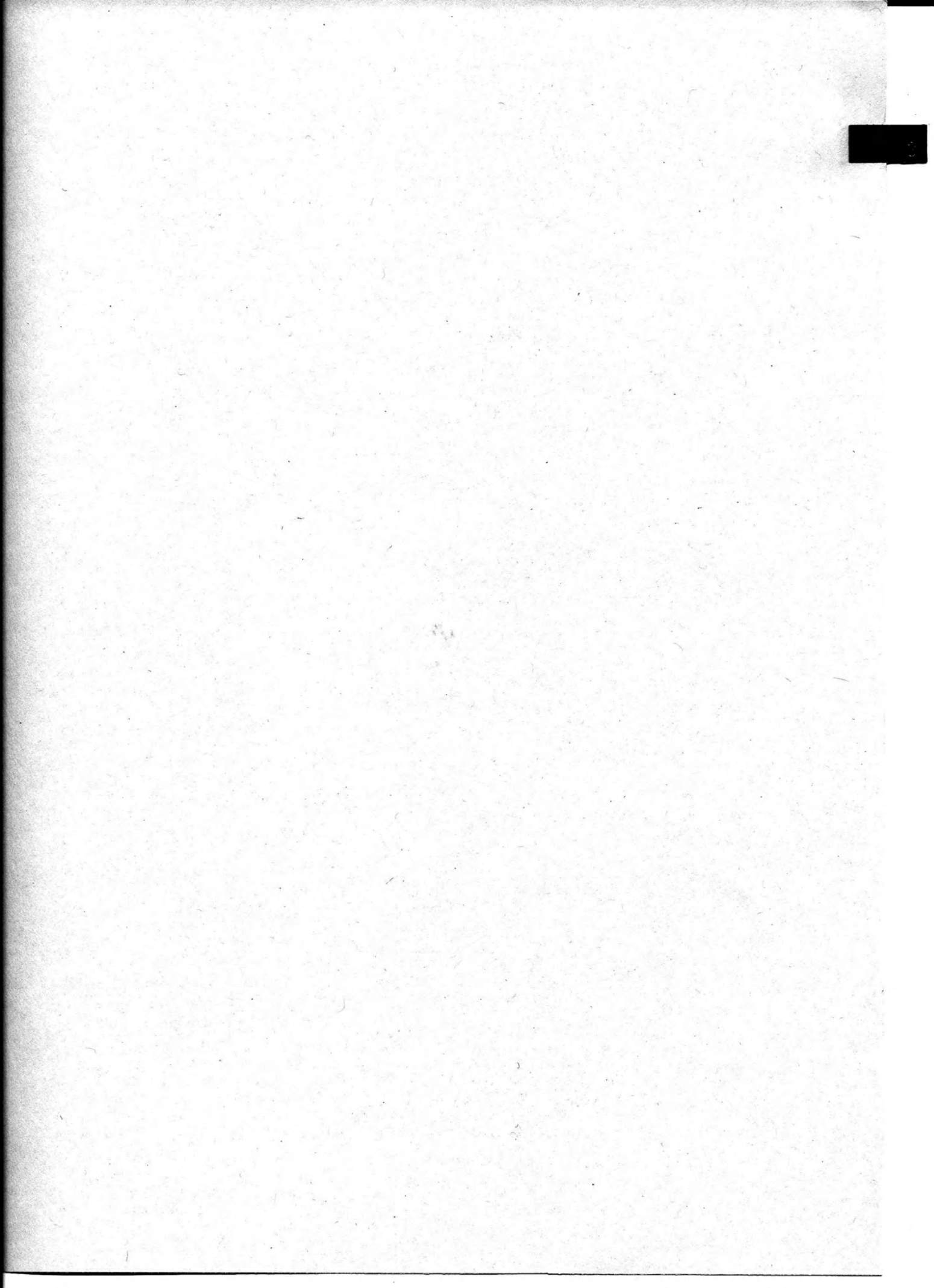
Sec. 5. Reports. The Task Force shall report its findings and recommendations to the President, through the Secretary of Veterans Affairs and Secretary of Defense. The Task Force shall issue an interim report in 9 months from the date of the first meeting of the Task Force. The Task Force shall issue a final report prior to the end of the second year of operation.

Sec. 6. Termination. The Task Force shall terminate 30 days after submitting its final report, but no later than 2 years from the date of this order.

GEORGE W. BUSH

THE WHITE HOUSE,  
May 28, 2001.

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THE DIRECTOR

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

November 20, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2620 -- Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2002

Sponsors: Representative Walsh (R), New York  
Senator Mikulski (D), Maryland

**Last Day for Action**

November 27, 2001 -- Tuesday

Funding for the agencies and accounts covered by the enrolled bill is currently provided under H.J. Res. 74, the fifth FY 2002 Continuing Resolution, which will expire at midnight on Friday, December 7th.

**Purpose**

Provides FY 2002 appropriations for the Departments of Housing and Urban Development (HUD) and Veterans Affairs (VA), the Environmental Protection Agency (EPA), the National Aeronautics and Space Administration (NASA), the Federal Emergency Management Agency (FEMA), the National Science Foundation (NSF), and a number of smaller agencies.

**Agency Recommendations**

Office of Management and Budget	Approval (Signing Statement attached)
Department of Housing and Urban Development	Approval (Assumed)
Department of Veterans Affairs	Approval (Assumed)
Environmental Protection Agency	Approval (Assumed)
National Aeronautics and Space Administration	Approval (Assumed)
Federal Emergency Management Administration	Approval (Assumed)
National Science Foundation	Approval (Assumed)
Corporation for National and Community Service	Approval (Assumed)

## **Discussion**

The VA/HUD/Independent Agencies enrolled bill provides a total of \$85.3 billion in FY 2002 discretionary budget authority, \$2.1 billion over your request and \$4.6 billion over the FY 2001 enacted level. The bill is funded within its 302(b) allocation. However, to stay within the allocation it includes a rescission of \$1.2 billion in HUD Section 8 unobligated balances, \$4.2 billion in HUD advance appropriations, and \$1.5 billion in contingent emergency funding for FEMA Disaster Relief. The conference report on H.R. 2620 was passed by the House 401 to 18 and by the Senate 87 to 7. We will continue to work with the Congress to ensure the policy and program content of each of the thirteen appropriations bills is acceptable to you and that the bill totals are within the recently agreed upon aggregate funding level of \$686 billion.

The enrolled bill provides most of your requested funding for housing assistance and community development programs. It also more than meets the funding requirements to improve benefits and services to our Nation's veterans. The enrolled bill provides sufficient funding to continue valuable space and earth science and aerospace programs at NASA, continues investments in research and science at the National Science Foundation, improves EPA's ability to be more effective in addressing the Nation's most pressing environmental quality needs, and addresses unforeseen funding requirements for the Federal Emergency Management Agency.

## **Presidential Initiatives**

The enrolled bill addresses your FY 2002 requests for several key initiatives. The Veterans Affairs Duty to Assist initiative to improve performance in claims processing and assist veterans with their claims is fully funded at \$955 million. The National Science Foundation Math and Science Partnerships initiative, which provides funds for States to join with institutions of higher education in strengthening math and science education in grades K-12, receives \$160 million of the \$200 million you requested. The bill provides \$50 million of the \$200 million you requested for HUD's Down Payment Assistance initiative to assist low-income families with a down payment on their first home.

## **Department of Housing and Urban Development**

The final version of the bill provides \$30 billion for the Department of Housing and Urban Development, \$425 million below your request and \$1.5 billion over the FY 2001 enacted level. Your FY 2002 Budget request focused on improving HUD's performance by funding those programs that are at the heart of its housing and community revitalization mission and proposed terminating programs that fall outside that mission.

As you requested, the enrolled bill renews all expiring rental assistance contracts to assist low income renters at a cost of \$15.1 billion. The bill also funds \$144 million of the \$197 million requested for additional low-income housing vouchers. Community Development Block Grants (CDBG) is funded \$5.0 billion, \$198 million over your request, and \$113 million below the FY 2001 enacted level. The enrolled bill also provides your requests of \$277 million for the Housing Opportunities for Persons with AIDS program and \$110 million for Lead Hazard Reduction. Congress agreed with your request to eliminate funding for the underperforming Public Housing Drug Elimination Grants program.

As requested, the final version of the bill provides authorization of a popular new loan type, hybrid adjustable-rate mortgages, which will increase demand for FHA-guaranteed loans. The bill also provides your requested increases in FHA receipts by raising premiums for some specialized FHA programs (e.g., condominium, rehabilitation, and multifamily loans), requiring all single-family FHA borrowers to pay the same premium rates and eliminating the Government subsidy.

#### **Department of Veterans Affairs**

The enrolled bill funds Veterans Affairs at \$23.8 billion, \$447 million over your request, and \$1.4 billion over the FY 2001 enacted level. The bill provides \$21.3 billion to VA Medical Care, \$351 million over your request and \$1.1 billion over the FY 2001 enacted level. Medical and Prosthetic Research is funded at \$371 million, slightly above your request. The enrolled bill contains language that would prevent VA from implementing your initiative to ensure that all military retirees annually choose either VA or DoD as their health care provider. Implementation of this initiative would enhance quality and continuity of care, and prevent duplication of services and costs.

#### **Environmental Protection Agency (EPA)**

The enrolled bill funds EPA at \$7.9 billion, \$590 million above your request and \$92 million over the FY 2001 enacted level. The bill provides \$3.9 billion, \$157 million over your request and \$44 million over the FY 2001 enacted level for the Operating Program. The Operating Program consists of EPA's core regulatory, research, and enforcement activities and State program grants. The bill provides \$3.7 billion for State and Tribal Assistance Grants, \$444 million above your request and \$112 million over the FY 2001 enacted level. Superfund is funded at \$1.27 billion, roughly equal to your request.

The enrolled bill adopts the language passed by the House prohibiting a delay in setting new drinking water standards for arsenic to include the standard of 10 parts per billion. However, there is report language stating that "the Congress and the Administration must act swiftly to provide both the time and the means for many small communities to meet the 10 parts per billion standard." The Administration is directed to provide a report to the Congress by March 1, 2002, that addresses affordability and compliance concerns of smaller communities.

#### **Federal Emergency Management Agency (FEMA)**

The enrolled bill provides \$2.1 billion for FEMA Disaster Relief, \$745 million over your request and \$518 million over the FY 2001 enacted level. However, \$1.5 billion of these funds is designated as contingent emergency funding. Base (non-emergency) funding is funded at \$664 million, \$702 million below your request. The bill provides \$413 million for Emergency Management Planning and Assistance, \$75 million over your request and \$61 million over the FY 2001 enacted level. The bill also funds the Fire Grants program at \$150 million, \$50 million over your request. The enrolled bill provides your \$140 million request for the Emergency Food and Shelter Program.

### **National Aeronautics and Space Administration (NASA)**

The conference bill provides \$14.8 billion for NASA, \$281 million above your request and \$539 million over the FY 2001 enacted level. The bill fully funds or almost fully funds priority science and technology programs at NASA, including the next decade of Mars missions, lower-cost space transportation, and astrophysics and climate change research. The International Space Station is funded at \$1.73 billion, \$75 million below your request and \$101 million below the FY 2001 enacted level. The bill, however, includes over 130 unrequested projects totaling over \$530 million, including funding for museums, planetariums, corporate jets, libraries, automobile engines, and college dormitories.

### **National Science Foundation (NSF)**

The bill provides \$4.8 billion for NSF, \$317 million above your request and \$372 million over the FY 2001 enacted level. The bill provides \$3.6 billion for Research and Related Activities, \$271 million over your request and \$255 million over the FY 2001 enacted level. The bill also includes \$875 million for Education and Human Resources, \$3 million over your request and \$90 million over the FY 2001 enacted level.

### **Corporation for National and Community Service (CNCS)**

The bill provides \$407 million for CNCS programs, \$9 million below your request and \$55 million below the FY 2001 enacted level.

### **Earmarked Funding**

The Budget encouraged the Congress to reduce earmarking of appropriated funds to enhance programs ability to meet broad programmatic goals. Unfortunately, this bill increased the number of earmarks by approximately twelve percent.

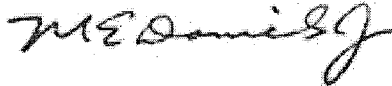
### **Infringement on Executive Authority**

There are several provisions in the enrolled bill that would require Committee approval before Executive Branch execution. The Administration has made it clear to the Congress, however, that we will interpret these provisions to require only notification of the Congress since any other interpretation would contradict the Supreme Court ruling in INS v. Chadha.

Recommendation

On balance, the enrolled bill provides adequate funding for your major initiatives and does not include a large number of objectionable legislative provisions. The enrolled bill also abides by the agreed upon funding level for FY 2002 of \$686 billion. I join with the heads of the affected Departments and agencies in recommending that you sign H.R. 2620. A signing statement is attached for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "M E Daniels Jr".

Mitchell E. Daniels, Jr.  
Director

Attachment



For Immediate Release  
Office of the Press Secretary  
November 26, 2001

## STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 2620, the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002."

I appreciate the bipartisan effort that has gone into producing this Act. The Act abides by the agreed upon aggregate funding level for Fiscal Year 2002 of \$686 billion and supports several of my Administration's key initiatives with:

- \$955 million for the Veterans Affairs Duty to Assist initiative to improve performance in claims processing and assist veterans with their claims;
- \$160 million for the National Science Foundation Math and Science Partnerships initiative, which provides funds for States to join with institutions of higher education in strengthening math and science education in grades K-12; and
- \$50 million for the Housing and Urban Development Down Payment Assistance initiative that assists low-income families with the down payment on their first home.

Several additional initiatives I have proposed were worthy of funding but are not part of this bill: the Community Technology Centers and Improving Access programs in HUD, the Silver Scholarships and Veterans Mission for Youth programs under the Corporation for National and Community Service, and the VA/DOD Medical Care Choice initiative.

The Silver Scholarship Program would have provided Silver Scholarships to 10,000 older Americans who volunteer 500 hours of service tutoring and mentoring students in after-school programs. Each \$1,000 scholarship could be deposited in an education savings account for use by seniors' children, grandchildren, or another child. The Veterans Mission for Youth program would have provided matching grants to community organizations that connect veterans and retired military personnel with America's youth through mentoring, tutoring, after-school, and other programs.

The VA/DoD Medical Care Choice initiative would ensure that all military retirees annually choose either the Department of Defense or the Department of Veterans Affairs as their health care provider. This would enhance quality and continuity of care and prevent duplication of services and costs.

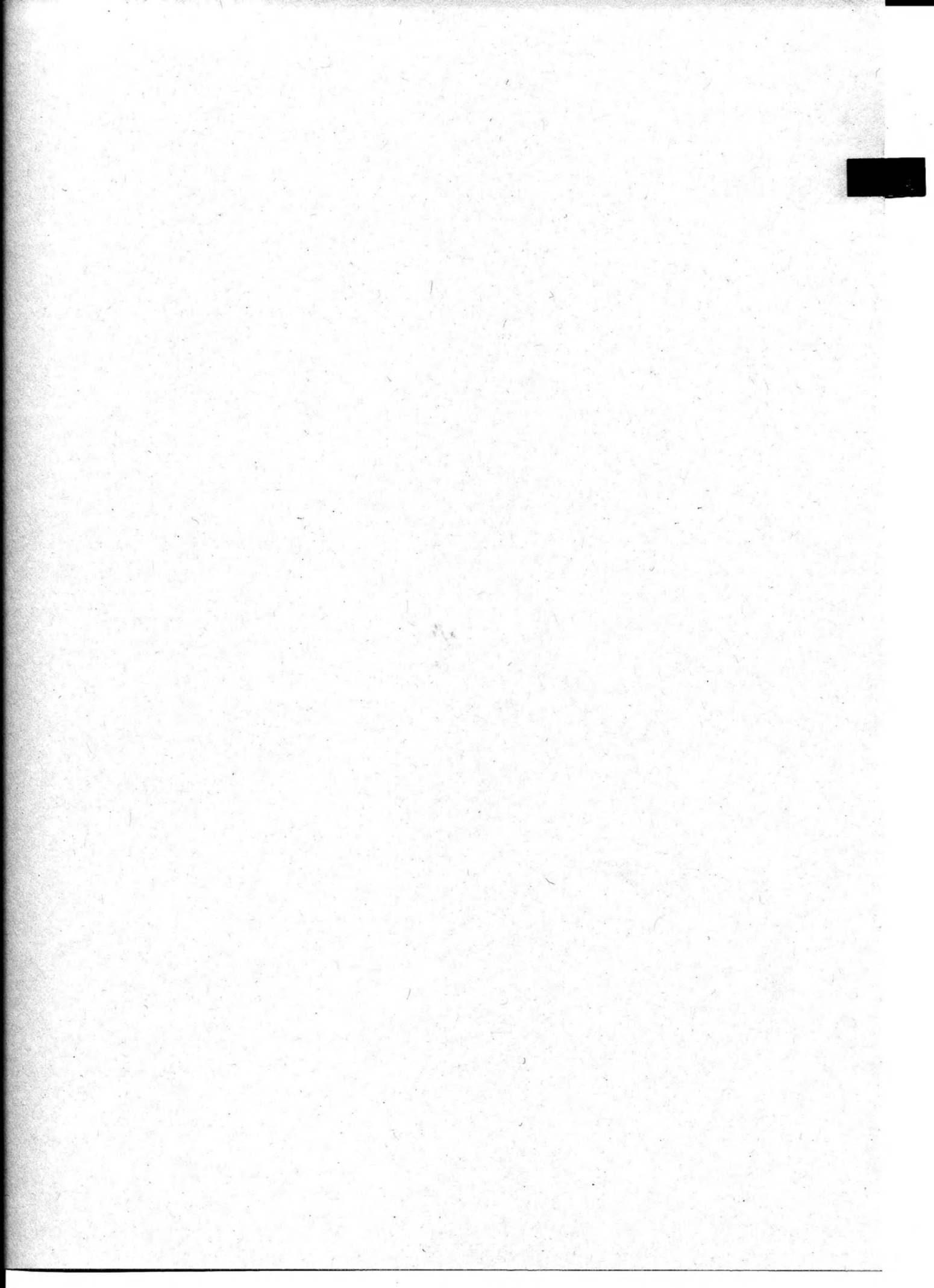
Several provisions in the Act purport to require congressional approval before executive branch execution of aspects of the bill. My Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS v. Chadha.

GEORGE W. BUSH

THE WHITE HOUSE,

November 26, 2001.

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THE DIRECTOR

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

July 26, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4775 -- 2002 Supplemental Appropriations for Further Recovery From and Response to Terrorist Attacks on the United States

Sponsors: Representative Young (R), Florida  
Senator Byrd (D), West Virginia

Last Day for Action

August 7, 2002 -- Wednesday

While the last day for action is August 7<sup>th</sup>, your signature is recommended as soon as possible. You requested these funds on March 21, 2002, over four months ago. Funding for some aspects of the war on terrorism and aviation security is nearly depleted.

Purpose

The enrolled bill provides supplemental FY 2002 appropriations for continuing the war on terrorism, homeland security activities, including providing critical funding for the Transportation Security Agency (TSA), recovery efforts in New York, and other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
Department of State	Approval
Department of Transportation	Does not object
Other Affected Departments and Agencies	Approval (assumed)

Overall Recommendation

On balance, H.R. 4775 is an acceptable bill providing needed funding for defense, international programs, homeland security, and recovery efforts in New York. I recommend that you sign the bill.

While H.R. 4775 provides \$28.9 billion, the bill includes \$5.1 billion in emergency spending that is contingent upon your designation of those funds as necessary to address an "emergency." This \$5.1 billion in contingent amounts covers programs and projects added by Congress. None of the items in your original request fall within this \$5.1 billion sum, although you have since endorsed at least two -- funding for AIDS prevention and funding for Israel/Palestine.

The bill contains an unprecedented "all or nothing" provision applicable to the entire \$5.1 billion sum. It provides that you may not designate any of that \$5.1 billion as "emergency" spending unless you designate every single dollar of that sum as "emergency" spending. For example, you could not designate \$200 million in funding for AIDS prevention or \$250 million for Israel/Palestine as an emergency unless you also designate the balance of the \$5.1 billion as an emergency, including funding for an alcohol storage facility for the Smithsonian (worm jars) and funding for security needs at an animal forensics laboratory.

We have consistently opposed this type of blanket "emergency" designation because it establishes an extremely bad precedent limiting Presidential discretion and could lead to substantial unnecessary spending under the guise of a false "emergency." Only approximately \$1 billion of the \$5.1 billion sum are funds that are required at this time. With this provision the Congress is requiring that you spend \$4 in unneeded spending for every \$1 in needed spending. But that unnecessary money can all be provided by means other than this supplemental appropriations bill. Indeed, such expenditures can be funded either by transfer of monies from existing accounts or by the funding already included in your FY 2003 Budget, which if enacted in a timely manner, will be available in approximately two months. Spending the entire \$5.1 billion in FY 2002 would permit Congress room to add approximately that much more money above your Budget in the appropriations bills ahead.

For over ten years, the Budget Enforcement Act's caps on discretionary spending have been applied to the appropriations process, and emergency designations have been used as an exception to the caps -- a safety valve to address urgent and unforeseen needs. None of the more than forty appropriations bills over that period contained this "all-or-nothing" provision. The only purported exception identified by Congress -- in the FY 2000 supplemental -- applied only to a single subject matter, funding for Bosnia and other defense programs. It did not require the President to designate a mass of unrelated matters as "emergencies" as this bill does. In fact, President Clinton chose to designate the military spending as an emergency but declined to designate other items on a case-by-case basis.

Therefore, I recommend that you withhold your emergency designation of the \$5.1 billion made contingent by the Congress in H.R. 4775. This action would give effect to your commitment to fiscal responsibility and ensure that funds are not wasted on non-emergency and unnecessary activities.

For those few contingent items considered essential, I recommend that you transmit FY 2003 budget amendments. We are still reviewing the specific requirements. These budget amendments would include, at a minimum, \$250 million in economic assistance for Israel and

the West Bank and Gaza, and \$200 million for your International Mother and Child HIV/AIDS Prevention Initiative. The package could include other items such as additional funding for operations of the Transportation Security Administration (TSA). While the budget totals proposed in your FY 2003 Budget would be increased by these amendments, these proposals would still fit within the overall discretionary spending total of \$759.1 billion in the House-passed budget resolution, which is \$1.4 billion above your budget request.

### **Summary**

The enrolled bill provides \$31.9 billion in gross budget authority, offset by \$3.0 billion in rescissions, for a net spending total of \$28.9 billion. This net total is \$1.8 billion more than your request and includes \$5.1 billion provided on a contingent emergency basis.

The House adopted the conference report on H.R. 4775 on July 23rd by a vote of 397-32 and the Senate adopted the report on July 24th, by a vote of 92-7.

## **APPROPRIATIONS MATTERS**

### **Department of Defense (DoD)**

After adjusting for cuts applied to DoD, the bill provides \$13.2 billion for defense, \$0.9 billion below your request. This total includes \$0.6 billion in rescissions not included in your original transmittal but acceptable to the Administration. The bill provides nearly all the items that you requested.

The funding provided will enable DoD and the intelligence community to prosecute the global war on terrorism and fulfill other national security responsibilities. The bill includes funding for the conduct of military operations; pay for reserve and national guard personnel; critical command, control, communications, and intelligence support; procurement of munitions and unique special operations weapons; and coalition support.

An additional \$1.0 billion in contingent emergency funding includes resources to cover the costs of mobilizing additional personnel and increased intelligence capabilities. However, these funds are not critical to support the war on terrorism this fiscal year; DoD has sufficient resources on hand to pursue these activities.

### **International**

H.R. 4775 provides a total of \$2.1 billion for international activities, \$0.5 billion above your request. Of the items that you requested on March 21, 2002, the bill provides all but \$0.1 billion.

This funding will enable the international community to increase efforts to respond, deter, or prevent acts of international terrorism (such as enhanced embassy security, urgent counter-narcotics activities, and law enforcement support); to supply military equipment and training and economic assistance to our allies; and, to provide assistance to the people of Afghanistan.

Of the total, the bill provides \$0.6 billion as contingent emergency funding, including amounts for Israel and Palestine (\$250 million) and for efforts to curb mother-to-child transmission of HIV/AIDS (\$200 million). Neither of these amounts can be effectively utilized in the remaining few months of FY 2002. As noted above, if you were to withhold immediate release of these funds, the Administration could submit FY 2003 budget amendments to maintain your commitment to these activities.

### **Homeland Security**

The enrolled bill provides \$6.3 billion for homeland security activities. Of the \$5.3 billion in specific items that you requested, the bill provides \$4.2 billion on a non-contingent basis, including \$2.3 billion for TSA; \$1.0 billion to reimburse the Federal Emergency Management Agency (FEMA) for funds transferred to TSA; \$0.2 billion for First Responder grants at FEMA to provide training and equipment to States and localities; and \$0.2 billion for Coast Guard operating expenses. The largest reductions from your request include \$1.0 billion for TSA and \$0.1 billion for First Responder grants.

The \$1.0 billion reduction below your request for TSA undermines our ability both to meet congressionally imposed deadlines and to ensure the timely and effective rollout of airport security operations. TSA, as a result, will need to revise its deployment strategies for passenger and baggage screening. The contingent funding added by the Congress is heavily earmarked as noted below. Consequently, even if you released this contingent funding for TSA, the agency would still face the same significant hurdles to meeting aviation deadlines. Therefore, a budget amendment for FY 2003 to provide additional base operation funding for TSA could be necessary.

The bill also provides the Federal Aviation Administration (FAA) \$33 million by transfer and \$42 million on a contingent basis. FAA requires some or all of the additional \$42 million to avoid furloughs for the remainder of FY 2002. Even if you decide not to spend the contingent money, sufficient funding can be transferred to FAA from existing balances in the Emergency Response Fund.

The bill provides \$2.1 billion on a contingent emergency basis for homeland security. With the exception of those for FAA, the contingent funds provided are not required in FY 2002 and generally these funds could not be obligated, much less spent, in the remaining two months of the year. If specific needs arise, the affected agencies have sufficient funds on hand, or available for reprogramming, to carry out the activities. The funds provided by the Congress on a contingent basis for homeland security include:

- \$0.5 billion in congressionally-earmarked TSA funds for modifications above needed resources for: installation of baggage explosive detection systems (\$0.2 billion); grants to port authorities for port security (\$0.1 billion); and other activities;
- \$0.5 billion for the Department of Justice for counterterrorism, cybercrime, and information technology of the FBI (\$0.2 billion); first responder assistance (\$0.2 billion); and construction and other activities at the Immigration and Naturalization Service (INS, \$0.1 billion);
- \$0.3 billion for Coast Guard aircraft (\$0.2 billion); shore facilities (\$0.1 billion); and patrol boats.
- \$0.2 billion for the Department of Energy for security activities at various sites and for transportation activities;
- \$0.1 billion for FEMA for interoperable communications systems and increased urban search and rescue operations;
- \$0.1 billion for security at Corps of Engineers sites;
- \$0.1 billion for the Department of the Treasury for various security and training activities; and,
- \$0.3 billion for various activities at other agencies, including the Departments of Agriculture, Commerce, Health and Human Services (HHS), and the Interior, the District of Columbia, the Environmental Protection Agency, and the Smithsonian.

### New York

H.R. 4775 provides \$5.5 billion for New York recovery from the September 11th terrorist attacks, in amounts that are virtually identical to your request. This brings total funding for New York to over \$20 billion, more than fulfilling your commitment.

The only significant change from your request is that the Congress chose to reduce the amount for FEMA by \$0.1 billion and to allocate contingent emergency funding of that amount to the Department of Health and Human Services (HHS) for additional health screenings for emergency workers exposed to environmental contaminants at the World Trade Center site. This unrequested funding is not needed at this time since FEMA is already providing adequate health monitoring services in New York, and these contingent emergency funds could not be obligated before the end of FY 2002.

The base non-contingent funding for New York activities includes \$2.7 billion for FEMA disaster relief efforts; \$2.0 billion for the Department of Transportation (DOT) to replace, rebuild, or enhance mass transportation systems serving Manhattan and to restore and reconstruct damaged State and local roads; and \$0.8 billion for the Department of Housing and Urban

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Development to rebuild destroyed utility infrastructure and to support the rebuilding of Lower Manhattan.

### **Dislocated Worker Assistance**

Regrettably, the Congress provided none of the \$750 million requested for dislocated worker assistance, which included \$550 million for National Emergency Grants. However, on July 1, 2002, approximately \$1.5 billion became available for grant assistance under the Department of Labor's dislocated worker program, thereby reducing the urgency of supplemental assistance.

### **Other Requested Appropriations**

The Congress provided \$1.0 billion of your \$1.3 billion request for Pell grants as direct, non-emergency appropriations. This amount will alleviate a portion of the current Pell grant shortfall. This appropriations bill partially solves a problem the Congress created in the 2002 appropriation by underfunding Pell grants. The remainder of the shortfall (about \$800 million under the recent Mid-session Review estimates) will be carried into the 2003 appropriation process. We will continue to work with the Congress to ensure adequate resources are available to support the Pell grant maximum award level of \$4,000 that you have sought in the FY 2003 Budget.

H.R. 4775 appropriates the requested \$142 million of non-contingent funding to provide health care to newly enrolled non-disabled higher-income veterans. The enrolled bill also includes \$0.1 billion for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as requested. These funds will finance rising participation in the program and the increased costs of WIC food and administration.

The bill provides non-contingent funding of \$31 million for the Security and Exchange Commission (SEC), \$11 million over your request, which would support over 100 new positions to deal with financial fraud and reporting. An additional \$9 million in contingent funding is provided to SEC. This unrequested and contingent amount would fund unnecessary office enhancements that would not contribute in any way to SEC oversight or enforcement.

The bill also provides an additional \$275 million of contingent funds for veterans' health care, an amount approximately equal to the itemized management savings which the Department of Veterans Affairs (VA) is on track to achieve (i.e., procurement economies of scale, inventory management, consolidation of laboratory and laundry functions, and case management of high cost patients). While enrollment has continuously increased and patients are being placed on waiting lists in some areas, the contingent funds (equal to less than five days of operating funds) would not solve this capacity and staffing problem in the last two months of this fiscal year. We will continue to work with the Congress to address this important issue.

### Other Congressional Adds

The Congress also included additional unrequested funding totaling \$1.5 billion, of which \$1.0 billion was provided on a contingent basis, including:

- \$0.4 billion for election administration reform activities on a contingent basis. These funds are also contingent upon enactment of authorizing legislation and could not be obligated in FY 2002 to make an impact on the November elections. Your FY 2003 Budget includes \$0.4 billion to address these issues.
- \$0.3 billion in contingent funding for DOT, including \$0.2 billion to pay large airports for their security costs and \$0.1 billion to pay States for [KLT28] emergency road repairs. These funds are not required and, if needed, could be addressed through funds requested in your FY 2003 Budget.
- \$0.2 billion in contingent amounts for FEMA grants to fire departments, remaining claims from the Cerro Grande Fire, and additional disaster assistance related to the Southwest ice storms. FEMA already has sufficient funding on hand for any necessary expenses.
- \$0.2 billion in the non-contingent part of the bill to provide a direct, no-strings attached cash bailout of Amtrak for the remainder of FY 2002. This is contrary to your reform proposal, but unavoidable without vetoing the entire bill. It would obviate Amtrak's need for a second loan as previously planned.
- \$0.2 billion for various Department of Agriculture activities. Of this amount, \$50 million was included on a contingent basis for wildland fire management activities. While this has been an unusually active fire season thus far, the Administration has a contingency plan for funding a record year of fire suppression spending if necessary. No fire will go unfought this fire season due to lack of funding for fire suppression. The Congress provided both the Forest Service and the Bureau of Land Management with transfer authority that allows them to respond to extraordinary fire suppression needs. Use of such transfer authority is common practice and can be carried out in a manner to minimize programmatic impact. We will continue to monitor the situation and will develop funding options to address the repayment issue once we have a better idea of the outcome of the current fire season.

### Offsets

The Congress provided a total of \$3.0 billion in offsets, compared with \$1.5 billion requested. The congressional offsets are all acceptable and include:

- \$0.7 billion from several housing programs;
- \$0.6 billion from various rescissions within DoD;
- \$0.4 billion from the Agriculture Export Enhancement Program;

- \$0.4 billion from an across-the-board rescission of administrative and travel expenses from all Executive Branch agencies; and
- \$0.3 billion from Federal highway programs.

### Language Issues

H.R. 4557 includes objectionable language in Section 601 that would impose restrictive reporting requirements that must be met prior to the exercise of the expansion of counternarcotics authorities requested to fight a unified campaign against drugs and terrorism in Colombia. And, while the enrolled bill provides expanded authorities to prosecute the unified campaign against drugs and terrorism, these lapse on September 30, 2002. Therefore, unless they are reauthorized for FY 2003, these new authorities will not enable the Administration to undertake any significant new initiatives in support of the unified campaign. The Senate version of the FY 2003 Foreign Operations Appropriations Bill would provide the State Department with the authorities through FY 2003, but neither the appropriators nor the authorizers have provided the authority for DoD in their FY 2003 bills.

The bill also includes objectionable language in Section 502 that would require the Department of Energy to construct and operate two depleted uranium hexafluoride (DUF6) plants at Paducah, Kentucky and Portsmouth, Ohio, when only one is needed. This provision would result in unnecessary Federal costs of over \$100 million.

## **MAJOR AUTHORIZATION PROVISIONS**

### American Servicemembers' Protection Act

Title II of H.R. 4775, the American Servicemembers' Protection Act, would prohibit Federal, State, or local support to the International Criminal Court (ICC), subject to a Presidential waiver. It also restricts U.S. participation in certain UN peacekeeping operations, unless the President certifies that U.S. servicemembers can participate without risk of prosecution by the ICC or in the U.S. national interest. The Act authorizes the President to use all means necessary and appropriate to bring about the release of U.S. persons and allied persons detained by, or on behalf of, the Court. Subject to specified exemptions and Presidential waivers, the Act prohibits U.S. military assistance to countries that are party to the ICC. The Act states that the President shall establish appropriate procedures to prevent the transfer to the ICC of classified national security information and law enforcement information.

### Other Provisions

Title III of H.R. 4775 contains other legislative provisions, including:

- Limiting duty-free treatment under the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act for apparel articles assembled in the Caribbean and Andean regions from U.S. fabrics, to provide that these fabrics must be dyed and finished in the United States.

- Establishing procedures for selection by the U.S. Postal Service (USPS) of air carriers of certain mail to points in Alaska. USPS would be required to distribute certain mail on a "fair and reasonable basis" between air carriers that offer equivalent services and costs between two communities.

## CONCLUSION

As noted above, I recommend that you sign H.R. 4775. I further recommend, however, that you withhold your Presidential emergency designation for the \$5.1 billion in contingent emergency funding, thereby preventing the expenditure of these funds. More than \$4 billion of this contingent funding is either completely unnecessary, can be addressed with existing agency funds, or is already included in your FY 2003 Budget, which if enacted in a timely manner, will be available in approximately two months. For those activities where critical funding is still required, I recommend that you transmit to the Congress FY 2003 budget amendments, as discussed above.

Sincerely,

Mitchell E. Daniels, Jr.



For Immediate Release  
Office of the Press Secretary  
August 2, 2002

### **Statement by the Press Secretary**

On Friday, August 2, 2002, the President signed into law H.R. 4775, the "2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States" which provides supplemental FY 2002 appropriations for continuing the war on terrorism; homeland security activities, including critical funding for the Transportation Security Agency; and recovery efforts in New York.

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## **Veterans Day, 2002**

By the President of the United States of America  
A Proclamation

America was founded on the principles of liberty, opportunity, and justice for all, and on Veterans Day we recognize the men and women of our Armed Forces who have valiantly defended these values throughout our Nation's history. These remarkable individuals have helped to make our Nation secure and to advance the cause of freedom worldwide. By answering the call of duty and risking their lives to protect their fellow countrymen, these patriots have inspired our Nation with their courage, compassion, and dedication.

There are currently more than 25 million living American veterans, many of whom put their lives on the line to preserve our freedoms. Our veterans served on the land, at sea, and in the air, from the shores of Omaha Beach and the jungles of Vietnam, to the sands of the Persian Gulf, the mountains of Afghanistan, and many other battlefields around the globe. Through each of these challenges, the members of the Army, Navy, Air Force, Marines, and Coast Guard have protected our country and liberated millions of people around the world from the threats of tyranny and terror.

Our proud veterans have also helped to shape the American character. They have given us an extraordinary legacy of patriotism and honor, and their service represents the highest form of citizenship. So that young Americans can better understand the commitment and sacrifice of these heroes in securing the blessings of liberty, I ask all schools to observe November 10 through November 16, 2002, as National Veterans Awareness Week. I encourage educators to invite veterans to teach our young people about their experiences. By sharing their knowledge on some of the most proud and dramatic moments in our history, they can help educate and inspire a new generation of Americans.

On the observance of Veterans Day in 1954, President Dwight D. Eisenhower called on all citizens to not only remember "the sacrifices of all those who fought so valiantly..." but also to rededicate themselves "to the task of promoting an enduring peace...." Today, almost 50 years later, we remember the dedication of our veterans, and resolve ourselves to upholding their legacy of justice, liberty, and opportunity for all.

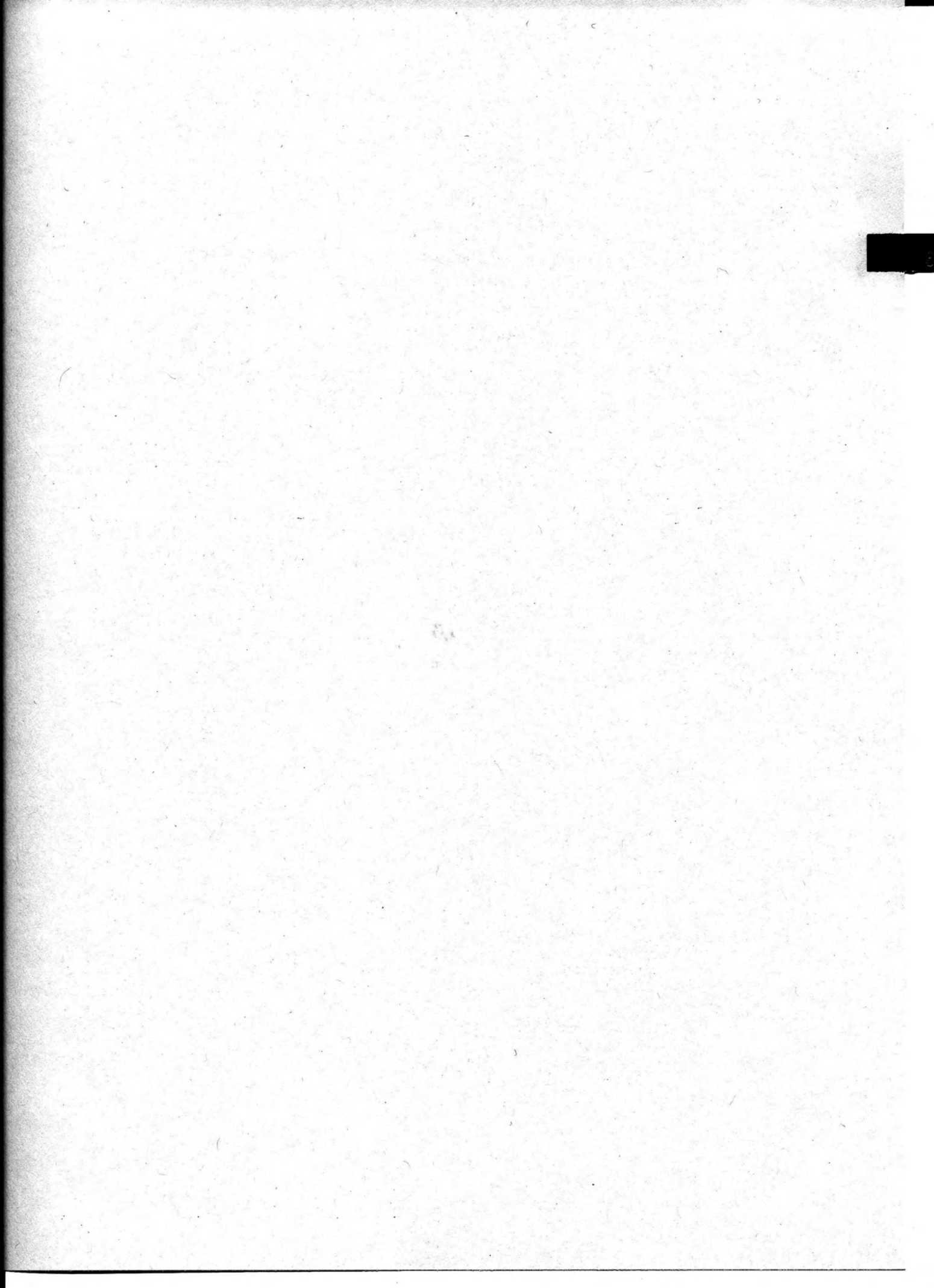
In recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor veterans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim November 11, 2002, as Veterans Day and urge all Americans to observe November 10 through November 16, 2002, as National Veterans Awareness Week. I urge all Americans to recognize the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers. I call upon Federal, State, and local officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with suitable commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of November, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.

GEORGE W. BUSH

###



MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4546 – Bob Stump National Defense Authorization Act for  
Fiscal Year 2003  
Sponsors – Rep. Stump (R) AZ and Rep. Skelton (D) MO

Last Day for Action

December 7, 2002 – Saturday. We recommend that you sign H.R. 4546 before you sign enrolled bill H.R. 2458, the E-Government Act of 2002. Signing the bills in the recommended order will help ensure that certain information security provisions in H.R. 2458 will take precedence over contradictory and less desirable provisions in H.R. 4546. (H.R. 2458 has not yet been delivered to the White House.)

Purpose

(1) Authorizes FY 2003 appropriations for Department of Defense programs, including \$10 billion for a reserve for the war on terrorism; (2) authorizes a military pay raise and other military benefits; (3) authorizes FY 2003 appropriations for Department of Energy national security programs; and (4) makes other modifications to national security and related programs.

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Department of Defense (DoD)	Approval (Signing statement attached)
Department of Energy (DoE)	Approval
National Security Council (NSC)	Approval (Informally)
Department of Justice	No objection
Department of Commerce	No objection (Informally)
Department of Labor	No objection (Informally)
Department of Transportation	No objection (Informally)
Department of the Treasury	No objection (Informally)
Corporation for National and Community Service	No objection (Informally)
General Services Administration	No objection (Informally)
National Aeronautics and Space Administration	No objection (Informally)
Department of Veterans Affairs (VA)	Defers to DoD
Department of Education	Defers to DoD (Informally)
Department of Health and Human Services	Defers to DoD (Informally)
Department of the Interior	Defers to DoD (Informally)
Department of Agriculture	No comment (Informally)
Department of State	No comment (Informally)

Central Intelligence Agency	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
Federal Emergency Management Agency	No comment (Informally)
Federal Maritime Commission	No comment (Informally)
Nuclear Regulatory Commission	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Peace Corps	No comment (Informally)
Small Business Administration	No comment (Informally)

### Discussion

H.R. 4546 contains, with some modifications, the major proposals in your Fiscal Year (FY) 2003 Budget request for National Defense. The enrolled bill provides for significantly increased authorizations over FY 2002 in many categories of spending, including authorizing \$10 billion for a war reserve, as well as military pay raises ranging from 4.1 to 6.5 percent. Major provisions of the enrolled bill are described below. Other provisions are described in Attachment A and the enclosed agencies' views letters. A summary comparison table of the enrolled bill's authorization level, your Budget request, and enacted appropriations is at Attachment B.

During congressional consideration of H.R. 4546, your senior advisers issued veto threats on five issues: the Crusader weapon program; the reserve for the war on terrorism; missile defense; concurrent receipt of disability and retirement benefits; and access to abortion services. All of these provisions were either deleted or modified acceptably.

### Appropriations Authorizations

H.R. 4546 authorizes appropriations of \$393 billion for FY 2003 national defense programs (including DoD military programs and other defense-related activities), which in total approximates your FY 2003 request and is an increase of about \$30 billion over FY 2002 enacted levels (including enacted supplemental appropriations). Several major funding categories are discussed below. To date, Congress has enacted FY 2003 appropriations of \$364.5 billion for the Department of Defense. The Defense Appropriations Act for FY 2003 did not include the requested \$10 billion reserve for the war on terrorism. The Department of Energy's national security programs, for which you requested \$16.5 billion, are operating under a continuing resolution.

Operation and Maintenance (O&M). Constituting about one third of the Defense budget, O&M is authorized at almost \$130 billion, which represents a \$2 billion cut from your request. This difference is added to other accounts, such as procurement and research and development. The enrolled bill authorizes \$32 billion for aircraft operations and flying hours, \$25.3 billion for facility maintenance and base support, \$9.1 billion for depot maintenance, and \$8.1 billion for training accounts, which are all at or near your request.

Procurement and Research and Development (R&D). H.R. 4546 authorizes appropriations of \$73.8 billion for procurement and \$56.7 billion for R&D programs, which support the Administration's top modernization programs. Examples of major weapons programs authorized at or very close to your request include: \$4.1 billion for twenty three F-22s and \$0.6 billion for related R&D; \$3.5 billion for the Joint Strike Fighter; \$1.6 billion for a fifth New Attack Submarine; \$2.4 billion for two DDG-51 AEGIS guided-missile destroyers; and about \$1 billion for unmanned aerial vehicles.

The conferees supported the Administration's decision to terminate the Crusader and authorized no funding for it. Instead, the enrolled bill authorizes funding in excess of the \$476 million originally requested for Crusader for other programs supporting Army indirect fire capabilities. For Army Transformation efforts (i.e., toward establishing a medium-weight force capable of deploying rapidly in response to a full spectrum of contingencies), the enrolled bill authorizes \$1.8 billion, which is about \$100 million above your request.

Military Pay and Benefits. H.R. 4546 authorizes \$93.8 billion for military personnel, which, net of accrual accounting costs, is near your request and includes key elements of the Administration's plan to improve military compensation, such as increased basic pay. It provides a 4.1 percent pay increase for enlisted personnel, and up to 6.5 percent for mid-grade and senior noncommissioned officers and mid-grade officers. The enrolled bill also authorizes various special and incentive pays. Additional benefits, such as assignment incentive pay, are outlined in Attachment A.

Missile Defense. H.R. 4546 authorizes appropriations of \$7.8 billion (as requested) for ballistic missile defense (BMD) programs. Of that total, \$814 million may be allocated to BMD and/or DoD's activities in combating terrorism. The President is required to determine how to allocate this amount between the two purposes based upon U.S. national security interests. The enrolled bill contains certain Congressional notification and other requirements on these matters.

War Reserve. H.R. 4546 authorizes appropriations of \$10 billion for the conduct of Operation Noble Eagle and Operation Enduring Freedom to continue the war on terrorism. The \$10 billion is authorized for transfer to specific accounts in specific amounts as follows: \$2.6 billion for mobilization/personnel; \$4.3 billion for the military operations; \$1 billion for equipment; \$2 billion for classified programs; and \$200 million for additional munitions. These amounts are consistent with the Administration's request. The enrolled bill includes certain Congressional notification and wait requirements before the Secretary of Defense can transfer these funds (which have not yet been appropriated) to the various budget accounts.

Military Construction. H.R. 4546 authorizes appropriations of \$10.4 billion for military construction and family housing accounts, which is about \$0.9 billion above the request. These authorizations provide the necessary authority for the Department of Defense to carry out the new construction projects funded in the recently enacted Military Construction Appropriations Act, FY 2003.

#### Special Compensation

The House- and Senate-passed versions of the bill would have repealed the long-standing prohibition on the concurrent receipt of military retirement pay and VA disability compensation. In lieu of either approach, the enrolled bill authorizes a special compensation payment for uniformed services retirees who completed at least 20 years of service creditable for retirement and incurred a qualifying combat-related disability (as defined in statute and to be implemented by regulations promulgated by the Secretary of Defense). Benefit payments are an appropriated entitlement funded out of DoD annual appropriations and are estimated to total \$264 million annually. (The earlier House and Senate provisions were estimated to have a 10-year mandatory cost of \$18.5 billion and \$58 billion, respectively.)

#### Cooperative Threat Reduction (CTR)

H.R. 4546 authorizes the request of \$417 million for CTR programs whose primary purpose is to reduce the threat to the Nation from the former Soviet Union's (FSU) stocks of weapons of mass destruction and their delivery systems. The enrolled bill provides the President national interest waiver authority for fiscal years 2003-2005 of statutory certification requirements regarding conditions that Russia and other FSU states must meet to be eligible for CTR assistance. You exercised similar waiver authority made available in the FY 2002 emergency supplemental. H.R. 4546 prescribes certain notification and reporting requirements, and limits the obligation of FY 2003 CTR funds until certain reports to Congress are submitted. The enrolled bill would direct the Administrator of DoE's National Nuclear Security Administration to establish a program with the Russian Federation on the research, development, and demonstration of technologies for protection from nuclear or radiological terrorism.

#### New DoD Policy Positions

H.R. 4546 establishes a new position of Under Secretary of Defense for Intelligence, which is Presidentially-appointed with the Senate's advice and consent. (The Secretary of Defense is required to submit a report to Congress on this new position, its mission, and organizational structure.) The enrolled bill designates an existing Assistant Secretary position, which is Presidentially-appointed with the Senate's advice and consent, as Assistant Secretary of Defense for Homeland Defense. The enrolled bill places the responsibility for overall direction and supervision for policy, program planning and execution, and allocation of resources for combating terrorism in the existing position of Under Secretary of Defense for Policy.

## Readiness and Range Preservation

H.R. 4546 includes only a few of the requested or modified readiness and range preservation provisions that were sought by the Administration to remove barriers to realistic training opportunities while maintaining responsible environmental stewardship at military facilities. Only one provision provides any statutory relief by creating an interim authority under which the Migratory Bird Treaty Act would not apply to the incidental taking of a migratory bird by the military during authorized military readiness activities. The enrolled bill includes two provisions authorizing agreements with private entities to acquire lands adjacent to military installations and the conveyance of surplus property for the purposes of preserving areas for natural resource protection and buffer protection for military facilities.

## National Call to Service

The enrolled bill requires DoD to carry out an enlistment incentive program under which a person who has not previously served in the Armed Forces can enlist in the military services as a "National Call to Service participant". The Secretary of Defense would designate which military specialties are included in this program. Program participants would sign an enlistment agreement and be required to serve on active duty for 15 months after completion of initial entry training, followed by an additional period of active duty as determined by the Secretary of Defense, or a two-year period in active status in the Selected Reserve. With regard to the balance of the remaining service agreement, participants can then spend that time on active duty in the Armed Forces, in the Selected Reserve, in the Individual Ready Reserve, in the Peace Corps, Americorps or another national service program, or in some combination of these. Participants must meet all eligibility requirements for military service and may elect to receive: (1) a \$5,000 bonus; (2) repayment of a qualifying student loan not to exceed \$18,000; (3) educational assistance at the monthly rate payable under the Montgomery GI Bill (MGIB) for 12 months; or (4) educational assistance at one-half of the monthly rate payable under the MGIB for 36 months.

## Key Objectionable Provisions Removed

Two key objectionable provisions deleted by the conferees are: (1) a Senate provision that would have removed the current statutory prohibition on access to abortion services at DoD medical facilities; and (2) a House provision that would have expanded the definition of core logistics functions from maintenance and repair of weapons systems to all logistics capabilities. This provision would have effectively doubled the number of logistics functions that would be exempt from competition, thus undermining DoD's ability to increase competitive sourcing.

## Agency Views

DoD recommends approval of H.R. 4546, advising that "in his September 24, 2002, letter to Congress, the Secretary of Defense identified several provisions in the House- and Senate-passed bills that, if retained, would merit a recommendation that the President veto the bill. Congress has resolved these issues to the Department's satisfaction." DoD recommends signing statement language that commends positive aspects of the bill, but also addresses certain constitutional and other concerns.

VA defers to DoD's views on the merits of H.R. 4546, but expresses concern that the special compensation provisions may result in a "surge in applications for increased VA compensation" that could "undermine our efforts to reduce our claims backlog."

Justice has no objection to approval of H.R. 4546, but recommends signing statement language to address various constitutional concerns.

#### Conclusion and Recommendations

We join DoD, DoE, and NSC in recommending the approval of H.R. 4546, which passed the House and the Senate by voice vote.

Attached for your consideration is a signing statement that addresses constitutional concerns. The statement has been coordinated with concerned agencies, NSC, the Office of the Vice President, and the Office of White House Counsel.

Nancy Dorn  
Deputy Director

Enclosures

LRD: Thompson/Burnim/dmw 11/27/02

NS: Cleveland

NSD: Peroff, Goldberg, Leuthy, Daniel, Husted, Ebner

ESD: Mertens, Pfeiffer

EIML: Fairhall, Brass

OFPP: Blum

GC: Rettman

OIRA: Chenok, Schlarman, White

BRD: Lee



## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AL51

#### Enrollment—Provision of Hospital and Outpatient Care to Veterans Subpriorities of Priority Categories 7 and 8 and Annual Enrollment Level Decision

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** As required by Pub. L. 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, the Secretary of Veterans Affairs must make an annual decision concerning enrollment in VA's health-care system in order to ensure that medical services provided are both timely and acceptable in quality. An enrollment system is necessary because the provision of VA health care is discretionary and can be provided only to the extent that appropriated resources are available for that purpose. In recognition of that fact, Congress has prioritized eligibility to enroll in the VA system by creating eight priority categories, with priority category 8 veterans (those who do not have compensable service-connected disabilities, and whose incomes exceed geographic-means tests) having the lowest priority for enrollment. The law recognizes the higher obligation owed to veterans requiring care for their service-connected disabilities, and to lower-income veterans. Since the implementation of the enrollment requirement in 1998, all veterans seeking VA care have been permitted to enroll. However, due to a tremendous growth in the number of veterans seeking VA health-care benefits in recent months, VA has been unable to provide all enrolled veterans with appointments within a reasonable time. Many VA facilities have either placed new enrollees on waiting lists or have scheduled appointments so far in the future that the services cannot be considered timely. This document announces the enrollment decision required by law. VA will continue to treat all veterans currently enrolled in any category, and will treat new enrollees in categories 1 through 7. However, to protect the quality and improve the timeliness of care provided to veterans in higher enrollment-priority categories, VA will suspend the enrollment of additional veterans who are in the lowest statutory enrollment category (priority category 8). It is emphasized that this decision will not affect veterans already enrolled in the

VA system, nor affect eligibility for treatment of service-connected disabilities which exists independently of enrollment requirements. This enrollment decision is effective January 17, 2003. To facilitate this decision, this document also amends existing regulations to establish additional subpriorities within priority category 8. Although the document takes no action that will affect the enrollment of veterans in priority category 7, the document will nevertheless also amend the existing regulations to establish the same additional subpriorities within priority category 7.

**DATES:** *Effective Date:* This interim final rule is effective January 17, 2003. Comments must be received by VA on or before March 18, 2003.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AL51." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Amy Hertz, Office of Policy and Planning (105D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273-8934.

**SUPPLEMENTARY INFORMATION:** Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, required VA to establish a national enrollment system to manage the delivery of inpatient hospital care and outpatient medical care, within available appropriated resources. It directed that the enrollment system be managed in such a way as "to ensure that the provision of care to enrollees is timely and acceptable in quality," and authorized such subprioritization of the seven statutory enrollment categories "as the Secretary determines necessary." The law also provided that starting October 1, 1998, most veterans had to enroll in the VA health-care system as a condition for receiving VA hospital and outpatient care. Since that time, VA has enrolled all eligible veterans who sought enrollment in the VA system.

Subsequently on January 23, 2002, Congress enacted the Department of

Veterans Affairs Health Care Programs Enhancement Act of 2001, further amending the law governing enrollment. It altered the enrollment system by establishing, effective October 1, 2002, an additional priority category 8.

This document amends 38 CFR 17.36 to add two new subpriorities to both enrollment priority categories 7 and 8, for a total of four subpriorities in each category. It also announces that VA will suspend enrollments of additional veterans in priority category 8. Veterans who VA would not enroll would be those who have no compensable service-connected disability or other status making them eligible for placement in a higher priority category. All of these veterans have annual incomes above a statutory income threshold (geographic means test threshold) applicable to the location in which they reside. The suspension of new enrollments is necessary to prevent further erosion of VA's capacity to provide needed health-care services of high quality to veterans in a timely and medically appropriate manner.

#### Projections for Increased Placement of Veterans on Wait Lists

An existing regulation (38 CFR 17.36(c)) requires that the Secretary determine which categories of veterans are eligible to be enrolled and that the Secretary notify eligible enrollees of the determination by announcing it in the **Federal Register**. In making that determination, the Secretary must consider an array of factors including economic information such as available resources, projections of demand for enrollment, and the length of waiting times for appointments for care.

There has been an unprecedented surge in enrollments in the VA health-care system. Between October 1, 2001 and September 2002, VA enrolled an additional 830,237 veterans. Of these new enrollees, 425,000 had annual income and net worth above the statutory "means test" income threshold that required VA to place them in enrollment priority category 7. The majority of those enrollees now fall within the new priority category 8. As a result of this growth in enrollment, many VA facilities have been unable to provide timely access to needed care. Many VA facilities have informed enrolled veterans that they are being placed on a wait list for care and that they will be notified when an appointment for care is possible. Other facilities have scheduled appointments for enrollees far into the future.

As of December 2002, VA estimates that there were almost 236,000 veterans who have been unable to schedule an

appointment or have an appointment scheduled more than 6 months from the desired date. Moreover, VA estimates that the number of veterans waiting for appointments more than 6 months from the desired date would increase in FY 2003. VA also estimates that between January and September 2003, as many as 164,367 priority category 8 veterans would seek to enroll for VA health care services. Without action to suspend new enrollment, this would adversely affect quality, patient safety, and access.

VHA's total FY 2003 medical care appropriation is estimated to be \$23.892 billion. This is supplemented by an additional \$1.881 billion from collections for copayments, third-party reimbursements for services, other revenue, and carry-over funds. The sum of these resources is \$25.773 billion. These resources include \$4.224 billion for services provided that are not included in the medical benefits package, including long-term care, domiciliary care, dental care, emergency

care, CHAMPVA, readjustment counseling, certain prosthetic services, and counseling treatment for sexual trauma. This leaves \$21.549 billion available for the medical benefits package.

The following table shows the projected average enrollment for FY 2003 together with the projected expenditures that would be needed to provide the medical benefits package to all enrollees.

TABLE—FISCAL YEAR 2003 PROJECTIONS

Priority category	Average enrollment	Medical benefits package expenditures	Cumulative medical benefits package expenditures
1	564,556	\$4,170,231,000	\$4,170,231,000
2	419,580	1,341,312,000	5,511,543,000
3	876,839	2,225,614,000	7,737,157,000
4	174,887	2,815,995,000	10,553,152,000
5	2,509,805	9,595,156,000	20,148,308,000
6	142,835	159,128,000	20,307,436,000
7	785,243	1,113,375,000	21,420,811,000
8	1,517,660	2,034,405,000	23,455,216,000
Total	6,991,405	23,455,216,000	

As can be seen from the expected appropriation and the table above, VA projects that available resources will be considerably less than needed to meet the strains that new enrollees would place on the system. Without VA's actually limiting enrollment, demand will overwhelm the system's ability to

provide timely care of the quality veterans expect and deserve.

Past enrollment growth has exhausted VA's marginal capacity, and the projected growth for FY 2003 and beyond exceeds both VA's primary and specialty care capacity. By suspending enrollment of additional priority category 8 veterans, VA would avoid

very significant additional medical benefits costs and begin to bring demand in line with capacity, which will reduce the number of veterans on wait lists. In FY 2003, 164,367 veterans who were expected to enroll in priority category 8 would not be enrolled. Further, this number is expected to grow to over 520,000 by FY 2005.

CUMULATIVE APPLICANTS FOR ENROLLMENT FROM JANUARY 17, 2003

Priority category 8	FY 2003 applicants from 1/17/03 to 9/30/03	FY 2004 cumulative applicants from 1/17/03	FY 2005 cumulative applicants from 1/17/03
0% SC	5,192	11,500	16,500
NSC	159,175	348,500	505,500
Total	164,367	360,000	522,000

Moreover, VA projects that enrollment in priority categories 1 through 7, which totaled 5,089,542 in FY 2002, will continue to grow significantly, as shown by the following table.

PROJECTED PRIORITY CATEGORY 1-7 ENROLLMENT

Fiscal year:	
2003	5,473,745
2004	5,754,701
2005	5,966,957

Immediate action is needed to limit enrollment to ensure VA's ability to provide already-enrolled veterans and new higher-priority veterans timely, medically appropriate access to high-quality health-care services. By suspending additional enrollments of priority category 8 veterans, VA will be better able to provide care to veterans in higher priority groups. Accordingly, effective January 17, 2003 additional priority category 8 veterans will not be enrolled. For this purpose, veterans who have completed the enrollment forms and submitted them to VA (or had them

postmarked) prior to January 17, 2003 will be considered to have enrolled before the cutoff date.

Subpriorities

Existing regulations currently provide for two subpriorities within both priority categories 7 and 8. The first subpriority includes those veterans with noncompensable zero percent service-connected disabilities. The second subpriority includes all other veterans in priority category 7 or 8.

This document amends the existing regulation, 38 CFR 17.36, to establish a

total of four subpriorities within both categories 7 and 8. They would be the following:

(i) Noncompensable zero percent service-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document and who subsequently do not request disenrollment;

(ii) Nonservice-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document and who subsequently do not request disenrollment;

(iii) Noncompensable zero percent service-connected veterans not included in paragraph (i); and

(iv) Nonservice-connected veterans not included in paragraph (ii).

This rule change reflects VA's view that veterans who are enrolled in the VA system should have a higher priority than those who have not sought enrollment and that those veterans with a service-connected disability should have a higher priority than those without a service-connected disability. This change also is necessary in order to carry out the announcement in this document that VA will cease enrolling additional veterans that VA would be required to place in the third and fourth subpriority in priority category 8.

#### **Administrative Procedure Act and Congressional Review Act**

We have found good cause to dispense with the notice-and-comment and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) and the notice and public procedure provisions of the Congressional Review Act (5 U.S.C. 801-808) because compliance with such provisions would be impracticable and contrary to the public interest.

Changes made by this rule reflect a VA enrollment decision based on available funding. Delaying implementation would exacerbate problems with providing enrolled veterans with timely access to needed care.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

#### **Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521).

#### **Executive Order 12866**

This rule is economically significant under Executive Order 12866 and major under the Congressional Review Act. The Office of Management and Budget have reviewed this rule.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### **Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

#### **List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: January 8, 2003.

**Anthony J. Principi,**  
*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

#### **PART 17—MEDICAL**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.36 paragraphs (b)(7), (b)(8) and (c)(2) are revised to read as follows:

#### **§ 17.36 Enrollment—provision of hospital and outpatient care to veterans.**

\* \* \* \* \*

(b) \* \* \*

(7) Veterans who agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g) if their income for the previous year constitutes "low income" under the geographical income limits established by the U.S. Department of Housing and Urban Development for the fiscal year that ended on September 30 of the previous calendar year. For purposes of this paragraph, VA will determine the income of veterans (to include the income of their spouses and dependents) using the rules in §§ 3.271, 3.272, 3.273, and 3.276. After determining the veterans' income and the number of persons in the veterans' family (including only the spouse and dependent children), VA will compare their income with the current applicable "low-income" income limit for the public housing and section 8 programs in their area that the U.S. Department of Housing and Urban Development publishes pursuant to 42 U.S.C.

1437a(b)(2). If the veteran's income is below the applicable "low-income" income limits for the area in which the veteran resides, the veteran will be considered to have "low income" for purposes of this paragraph. To avoid a hardship to a veteran, VA may use the projected income for the current year of the veteran, spouse, and dependent children if the projected income is below the "low income" income limit referenced above. This category is further prioritized into the following subcategories:

(i) Noncompensable zero percent service-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(ii) Nonservice-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(iii) Noncompensable zero percent service-connected veterans not included in paragraph (b)(7)(i) of this section; and

(iv) Nonservice-connected veterans not included in paragraph (b)(7)(ii) of this section.

(8) Veterans not included in priority category 4 or 7, who are eligible for care only if they agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g). This category is further

prioritized into the following subcategories:

(i) Noncompensable zero percent service-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(ii) Nonservice-connected veterans who are in an enrolled status on a specified date announced in a **Federal**

**Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(iii) Noncompensable zero percent service-connected veterans not included in paragraph (b)(8)(i) of this section; and

(iv) Nonservice-connected veterans not included in paragraph (b)(8)(ii) of this section.

(c) \* \* \*

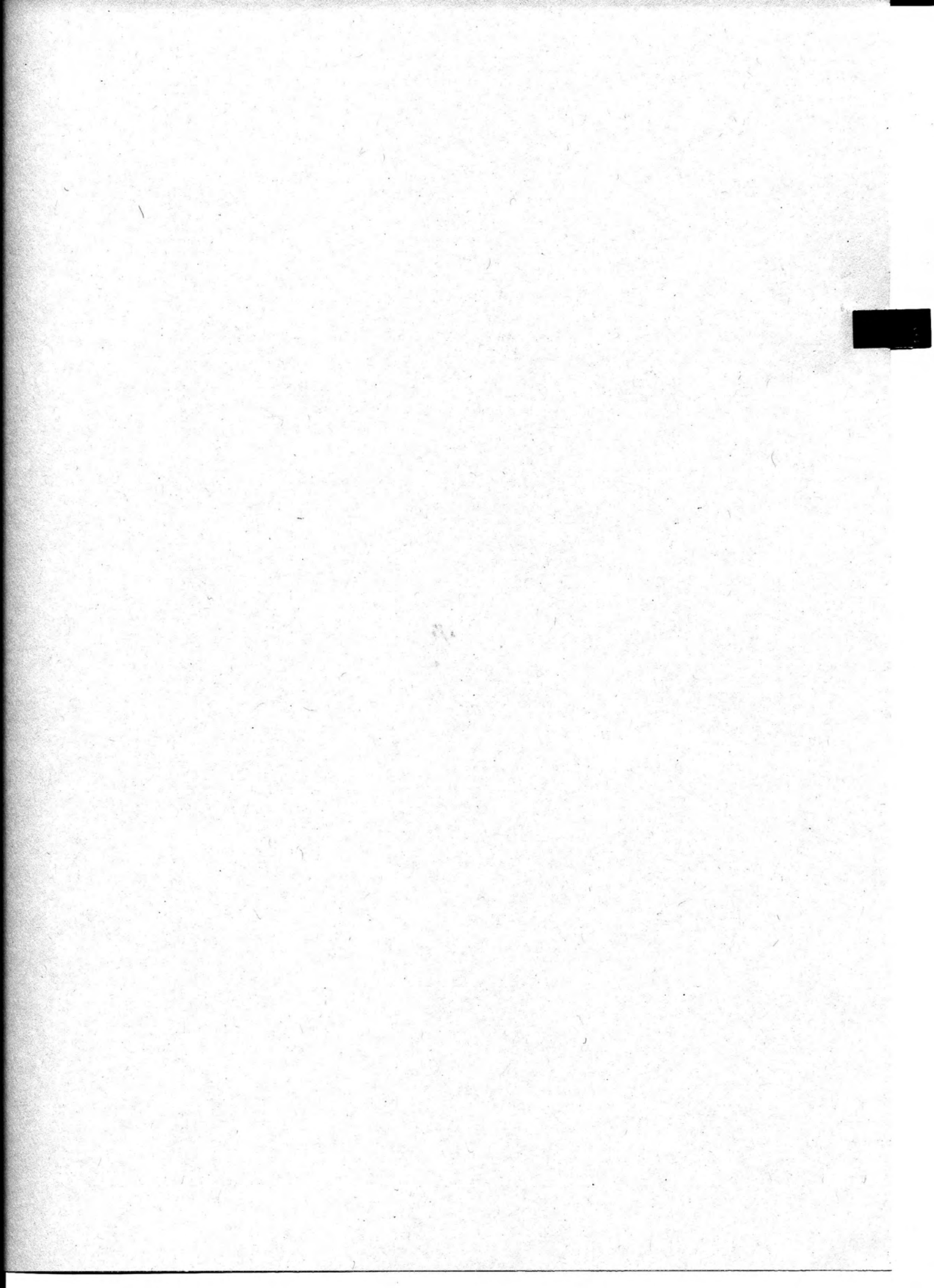
(2) Unless changed by a rulemaking document in accordance with paragraph

(c)(1) of this section, VA will enroll all priority categories of veterans set forth in § 17.36(b) beginning January 17, 2003 except that those veterans in priority category 8 who were not in an enrolled status on January 17, 2003 or who requested disenrollment after that date, are not eligible to be enrolled.

\* \* \* \* \*

[FR Doc. 03-1201 Filed 1-16-03; 8:45 am]

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THE DIRECTOR

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

February 19, 2003

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.J. Res. 2 -- Consolidated Appropriations Act, FY 2003

Sponsors: Representative Young (R), Florida  
Senator Stevens (R), Alaska

Last Day for Action

March, 3, 2003 – Monday. Your signature is recommended as soon as possible. Funding for the agencies and accounts covered by the bill expires at midnight on Thursday, February 20th.

Purpose

Provides FY 2003 appropriations for 11 of the 13 regular appropriations bills and additional FY 2003 funding for the Department of Defense (DOD). FY 2003 appropriations are included for the: Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, and Veterans Affairs; International Assistance Programs; Legislative Branch; Environmental Protection Agency; Executive Office of the President; National Aeronautics and Space Administration; and many other smaller agencies. H.J. Res. 2 also includes several authorizing provisions.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Other affected departments and agencies	Approval (assumed)

Overall Funding Level

H.J. Res. 2 provides over \$397 billion in discretionary budget authority, including \$10 billion in funding for DOD. On the surface, this is largely consistent with the agreed upon top line discretionary funding level that you urged Congress to adopt, although the bill does evade agreed upon non-defense discretionary funding levels through the use of budget "gimmicks," such as advance appropriations. In addition, the bill includes the Agriculture Assistance Act of 2003, which provides \$3.3 billion in unrequested drought and other assistance, that is only partially offset by spending reductions, as well as several Medicare and Medicaid provisions.

The Administration was able to secure funding for several priority programs, including education, election reform, and wildland firefighting. To reduce the cost of the bill, overall funding was reduced by a Government-wide across-the-board reduction of 0.65 percent to all non-defense programs, excluding Head Start; the Special Supplemental Feeding Program for Women, Infants, and Children; VA Medical Care; and, NASA's Space Shuttle.

The conference report on H.J. Res. 2 passed the House of Representatives on February 13th by a vote of 338-83 and passed the Senate the same day by a vote of 76-20.

### Homeland Security

H.J. Res. 2 is largely consistent with your request for entities that will be transferred to the Department of Homeland Security (DHS), as well as bioterrorism research in the Department of Health and Human Services. Importantly, it does not include any restrictions that will prevent the Administration from establishing the new Department. However, in some areas, the bill underfunds elements of your agenda for DHS and limits the Administration's flexibility in utilizing the funding provided. In these areas, we will exercise the maximum executive authority to direct funding to homeland security priorities and work with the Congress to gain added flexibility that will allow us to address potential gaps.

The area where H.J. Res. 2 falls far short of the Administration's request is terrorism preparedness assistance to first responders. You requested \$3.5 billion for the First Responders Initiative, which would have provided more than 10 times the historical level for these programs and streamlined this assistance by consolidating it within DHS. The bill, however, provides only \$1.3 billion for programs focusing on State and local preparedness within DHS, and much of that is earmarked. While the bill provides \$2.2 billion for existing State and local grant programs -- some in DHS and some in the Department of Justice -- these funds have little or no direct relation to terrorism preparedness. It will be difficult to direct funding from traditional programs such as Fire Grants, Local Law Enforcement Block Grants, Byrne Grants, and COPS, to coordinated, high priority terrorism preparedness activities. However, the Departments of Homeland Security and Justice are committed to doing so to the greatest extent possible.

The bill provides \$3.8 billion for the Immigration and Naturalization Service, four percent below your request. The bill fully funds your request for the Entry-Exit System (\$380 million), but includes a restriction on the use of the funds that may be unconstitutional. Further, there is a provision that requests a wide variety of documents and materials by March 1, 2003, related to the National Security Entry-Exit Registration System. This reporting requirement appears overly broad and seeks pre-decisional documents.

The bill provides \$0.2 billion below the request for the Transportation Security Administration (TSA), earmarks \$0.5 billion of the amount provided for unrequested items, and attempts to further dictate the use of funds through directives in report language accompanying the bill. These earmarks will make it difficult to sustain the current levels of aviation security activities.

The enrolled bill includes language requested by your Administration that authorizes the Federal Emergency Management Agency (FEMA) to provide \$1 billion for debris removal insurance from existing funds, and would allow this insurance to cover claims by City employees. The bill also allows FEMA to use existing uncommitted funds to compensate the State and the City for costs related to the September 11th attacks that are currently unreimbursable under the Stafford Act. The City and State of New York sought and actively supported both of these provisions. Finally, the bill provides \$90 million for long-term health monitoring within existing funds. While this bill does not provide any additional funds, it ensures previously enacted appropriations will be made available to New York. To date, you have secured \$20.8 billion in assistance for New York, well in excess of your \$20 billion commitment. This figure does not count either funds provided through the September 11<sup>th</sup> Victims Compensation Fund or the value of the recently-conveyed Governor's Island.

The bill includes only \$0.8 billion for FEMA's Disaster Relief Fund, which is over \$1 billion below your request. Your request was based on an average annual funding calculation for disasters during a normal year. The level provided by Congress raises the possibility that the Administration will have to request additional funding for this program at some point during the coming year to meet even normal disaster costs.

### **Major Issues by Department**

#### *Agriculture:*

H.J. Res. 2 provides over \$3.3 billion of assistance to agricultural producers. The majority of the funding (\$2.2 billion) is for crop disaster assistance for farmers that suffered a loss in 2001 or 2002. The bill requires that producers receive no more than 95 percent of what they would have received had they suffered no loss, including their crop insurance indemnities and revenue received for their crop. In addition to drought assistance, livestock producers, including catfish producers, also receive "emergency" assistance, estimated at \$520 million. Other assistance is also provided for tobacco, cottonseed, and sugar producers, as well as assistance to compensate for water shortages along the Rio Grande, and losses due to a herbicide spraying undertaken by the Forest Service, and to address Florida citrus canker disease. The bill purports to offset extra farm spending by reducing anticipated farm spending in the distant future -- savings that may never be realized. The bill does this by limiting aid producers would receive for the period FY 2003 through FY 2013 under a brand new Farm Bill program called the Conservation Security Program. It cannot be pretended that this device "pays for" the new spending; 95% of the "offset" comes in 2008 to 2013 -- after the current Farm Bill expires.

The Congress did not accept the Administration's proposal for funding technical assistance costs needed to implement the conservation programs in the recently-enacted Farm Bill. Instead, Congress mandated that USDA pay for all of the technical assistance costs for seven conservation programs from mandatory program funds for four of the programs, including the Environmental Quality Incentives Program. The Administration will continue to work with the Congress to develop a better mechanism for funding technical assistance while maximizing the amount of available conservation program funding for farmers.

The bill also provides a total of \$1.45 billion for P.L. 480 Title II food aid grants, an increase of \$265 million over your FY 2003 Budget request. The additional \$265 million in conjunction with existing funding that has been identified as available to be reprogrammed, will allow the Administration to address the famine needs in Africa in FY 2003.

*Commerce:*

The bill did not adopt your proposal to rescind funding for the steel loan guarantee program. Nor does the bill accept the requested reductions for the Manufacturing Extension Partnership (MEP) or the Advanced Technology Program (ATP). The bill provides \$107 million for MEP compared to your request of \$13 million, and \$180 million for ATP compared to \$107 million in the request.

*Defense:*

The enrolled bill provides \$10 billion in FY 2003 funding. The funding is essentially the \$10 billion war reserve that was requested, but not appropriated in P.L. 107-248, the FY 2003 Defense Appropriations Act. Your FY 2003 request for the war reserve allocated \$1.9 billion for classified programs and \$8.1 billion to support operations in the ongoing war on terrorism. This bill appropriates approximately two thirds of the \$10 billion to fund the ongoing war on terrorism with the remaining one third to fund classified programs, which is consistent with the updated request conveyed to Congressional Leadership during January.

The bill also requires a report to the Congress within 90 days of enactment on the Total Information Awareness program in the Defense Advanced Research Projects Agency. The most high-profile aspect of this program is use of information contained in government, commercial, and foreign databases to help locate and warn of terrorists and terrorist activities. If the 90-day report deadline is not met, obligations and expenditures for the program would be required to cease.

*Education:*

H.J. Res. 2 provides \$53.4 billion in total Education funding, \$3.1 billion over your FY 2003 request. Congress provided increases for most of your high-priority programs, including Reading First, Title I, IDEA Part B Grants to States, and Pell Grants. However, Congress chose not to redirect spending from low-priority programs, as you had proposed. Instead, Congress evaded spending restrictions by financing most of the Education Department increase through \$2.2 billion in additional advance appropriations for FY 2004 that will not be scored in FY 2003. Congressional Leadership indicated a willingness to correct the evasion in the FY 2004 process by counting FY 2004 advances in their top line, but it is far from certain that the agreement will be consummated in the FY 2004 budget and appropriations process.

The Department of Education's total FY 2003 budget authority (which excludes FY 2004 advance appropriations) is \$51.2 billion, \$0.9 billion over your request. Funding for the major education programs includes:

- \$1 billion for Reading First, the same as your request and a \$100 million increase over 2002.
- \$11.75 billion for Title I Grants to Local Educational Agencies, \$400 million more than your request and \$1.4 billion above the FY 2002 level. Within the total, \$9.0 billion is advance appropriated, a \$1.6 billion increase.
- \$8.9 billion for IDEA Special Education Grants to States, \$400 million more than your request and \$1.4 billion over the FY 2002 level. Within the total, \$5.7 billion is advance appropriated, a \$0.6 billion increase.
- \$11.4 billion for Pell Grants, to support a maximum award level of \$4,050, which is \$50 more than the maximum award that was assumed in your FY 2003 request and the 2002 maximum award. In response to earlier warnings from the Administration that the Pell Grant shortfall had increased significantly over the past year, Congress added \$0.6 billion above your request for Pell Grants. This will partially reduce the projected shortfall, lowering it to less than \$1.5 billion at the end of FY 2003.

*Energy:*

The \$460 million provided in the bill for work on a nuclear waste repository at Yucca Mountain is a \$131 million reduction from your request, and creates a risk that the repository could not open by the 2010 scheduled date. This reduction would hinder development of the license application to the Nuclear Regulatory Commission to proceed with construction of this vital facility, would not allow work related to transportation of materials to Yucca Mountain planned for this year, and would defer important site infrastructure safety upgrades.

The enrolled bill also reduces funding for the Department's Weatherization Assistance Program by \$52 million, or 19 percent, from the \$277 million request.

*Health and Human Services (HHS):*

In many cases, the enrolled bill meets or exceeds funding for several of your key health initiatives, including the Consolidated Health Centers and finishing the doubling of the National Institutes of Health budget. The enrolled bill, however, seriously underfunds the Drug Treatment initiative.

The bill is also largely consistent with your \$4.3 billion request for bioterrorism funding at HHS. The \$250 million requested for the National Institutes of Health to develop and procure a next generation anthrax vaccine is not explicitly provided; however, we will work with HHS to identify funding within existing resources to address this issue.

Although the Congress provided some limited increased funding for your compassion agenda, it generally underfunded many of your requests, providing only \$45 million of the \$155 million you requested for four key initiatives. In particular, H.J. Res. 2 includes \$35 million for the Compassion Capital Fund. While this level is significantly below your request of \$100 million, it is \$5 million above the FY 2002 level. The Mentoring Children of Prisoners initiative received \$10 million in the bill, \$15 million below your request. No funding was provided for the Maternity Group Home initiative or the Strengthening Fatherhood initiative.

H.J. Res. 2 includes several Medicare and Medicaid provisions. First, it broadens the administrative authority used in setting updates for Medicare physician payments. CBO estimates the cost at \$54 billion for FYs 2003-2013, while HHS estimates the cost at \$49.6 billion for FYs 2003-2012. Both CBO and HHS estimate that this would result in a 1.6 percent update in FY 2003. Second, the bill increases payments to rural and small urban hospitals at a cost of \$300 million in FY 2003 (and an additional \$80 million in FY 2004). While your Administration did not originally request an adjustment to hospital payments as evidence suggested providers were paid adequately, we worked with the Congress to secure a compromise in this area. Third, the bill extends through September 30, 2003, Medicaid payment of Medicare premiums for beneficiaries with incomes between 120 and 135 percent of poverty at a cost of \$45 million in FY 2003. Finally, the bill extends Temporary Assistance for Needy Families, related welfare programs, and Transitional Medicaid Assistance through June 30, 2003 to allow Congress and the Administration time to fully address reauthorization of these important programs. Your 2004 Budget proposed extending both of these programs for five years.

*Housing and Urban Development (HUD):*

The enrolled bill provides \$31.1 billion for HUD. While this is \$274 million below your request, the overall funding in the bill is sufficient to sustain HUD's low-income housing and community development programs.

Your American Dream Downpayment initiative is funded for the first time at \$75 million, \$125 million below your request. Other priorities funded in the bill include: \$1.225 billion to reduce homelessness, \$95 million above your request; and \$176 million for Lead Hazard Reduction, \$50 million above your request. The enrolled bill provides \$303 million for unrequested projects in the Community Development Block Grant and \$304 million above your request for the Public Housing Capital Fund. It does not authorize the public housing financing reform proposed in your FY 2003 Budget that could leverage almost \$1 billion in private mortgage financing for public housing capital improvements.

*Justice:*

The enrolled bill provides \$4.3 billion for the FBI, slightly above the amount requested. The level will fund salaries, construction, and the Foreign Terrorist Tracking Task Force.

The bill includes \$57 million, or \$37 million more than requested, for Methamphetamine Enforcement and Clean-up, as well as \$25 million, or \$10 million more than requested, for Safe Schools/Project Sentry.

While below the requested levels, the bill also funds several other high-priority initiatives, including the Residential Substance Abuse Treatment initiative, Project ChildSafe, Drug Courts, and the Southwest Border Prosecutors initiative.

*State and International Affairs:*

H.J. Res. 2 includes funding for humanitarian, economic and security assistance in Afghanistan as well as for debt relief for Pakistan and Jordan. It provides requested levels of funding for military assistance to Israel, Egypt and Jordan but provides \$35 million less than the Administration's overall request for military assistance. The bill fully funds all Global HIV/AIDS requests except for HHS's share of the Mother and Child HIV Prevention Initiative. HHS received \$40 million of the \$100 million requested.

The bill contains a provision that would require any U.S. citizen born in Israel to have their passport read "Jerusalem, Israel" as their place of birth, if so requested and the State Department advises that this provision raises constitutional and policy concerns.

The bill provides \$31 million less than your request for the Andean Counterdrug Initiative. The bill also provides \$20 million less than requested for the Peace Corps. This reduction will make it impossible to meet your goal of 10,000 Peace Corps volunteers by FY 2004 or to double the total number by FY 2007. The bill includes \$52 million less than requested for USAID's Capital Investment Fund. This shortfall in funding will mean that USAID employees overseas will continue to work in facilities that do not meet current security requirements. It will also impede USAID's efforts to complete much-needed investments in new information technology systems.

The bill only includes \$66.6 million of the requested \$177 million to pay arrears owed to several multilateral development banks and creates some new arrears, thus putting the Administration's three-year goal of clearing arrears in jeopardy.

The bill provides \$70 for the Diplomatic Readiness Initiative in the State Department operations, \$29 million less than the request. In addition, the bill includes \$1.264 billion for the Embassy Security Construction and Maintenance program, \$41 million below the FY 2003 request of \$1.304 billion. The enrolled bill includes \$755 million for the security construction program and \$508.5 million for non-security construction, acquisition, and maintenance of existing buildings and operation expenses. The bill also provides \$866 million to fund U.S. assessments to international organizations, a reduction of \$25 million from the request level of \$891 million. This reduction, in combination with exchange rate losses, may result in the accrual of U.S. arrears to a number of international organizations, including the United Nations.

*Transportation:*

The enrolled bill provides a total obligation limitation of \$31.8 billion for Federal Aid Highways account, which is \$4.2 billion more than your request of \$27.6 billion. Your Administration has stated concerns with this funding level, noting it was an unsustainable level of spending that breaks dramatically with the tradition of tying highway spending with trust fund revenue.

The Congress has provided Amtrak a total of \$1.0 billion, which is \$0.5 billion above your request. The bill also imposes conditions for reform that support the Administration's reform principles and which should improve Amtrak's management and operations. For example, Amtrak will be required to provide financial, capital improvement, and operating plans before funds will be made available by the Secretary of Transportation.

*Corps of Engineers:*

H.J. Res. 2 provides \$4.6 billion for the Corps, \$0.6 billion, or 15 percent, above your request. It funds a number of objectionable projects, including Devils Lake (ND), Yazoo Pumps (MS), and Dallas Floodway (TX). The bill would also prohibit the study or implementation of privatizing or transferring any Corps positions or functions, which could undercut the President's Management Agenda and other management improvement initiatives.

*Environmental Protection Agency (EPA):*

H.J. Res 2 provides \$8.1 billion for EPA, which is \$515 million, or six percent, higher than your request. It funds the agency's operating program at \$4.1 billion, approximately \$100 million more than the request. This operating program increase is primarily due to earmarks.

The enrolled bill specifies over 630 earmarks totaling more than \$468 million, which is approximately six percent of the EPA total. The operating program contains \$144 million in earmarks and the rest are in the State and Tribal Assistance Grants account. The bill also provides approximately \$168 million for Brownfields grants, which is \$32 million below the FY 2003 Budget request.

*General Services Administration (GSA):*

The enrolled bill directs GSA to purchase the America Media Building in Boca Raton, Florida, a private facility that was contaminated with anthrax in 2001. Under this provision, the Government would be held responsible for decontaminating the building, estimated to cost \$15 million.

*National Aeronautics and Space Administration (NASA):*

The bill provides \$15.4 billion for NASA, \$0.4 billion above your request and \$0.5 billion over the FY 2002 enacted level. The Space Shuttle is fully funded at the requested level, and the bill adds \$50 million to investigate the Columbia tragedy. As noted earlier, the Shuttle funding is exempt from the across-the-board funding reduction in the bill.

*Corporation for National and Community Service (CNCS):*

The enrolled bill provides only \$791 million for CNCS, \$241 million, or 23 percent, below your request of \$1,032 million. The Congress failed to adopt a \$64 million "deficiency appropriation" for CNCS and failed to provide additional authority for the Corporation's Chief Executive Officer to transfer program funds to the National Service Trust to support AmeriCorps members' education awards. These requests were an essential component of a comprehensive corrective action plan developed by CNCS to reform the program's inherited financial management weaknesses. As a result of the Congress' failure to support these essential reforms, the National Service Trust will be underfunded and the Corporation's ability to enroll new AmeriCorps members will be limited.

*Equal Employment Opportunity Commission (EEOC):*

The enrolled bill provides only \$309 million for EEOC -- more than \$11 million, or 3.6 percent, below your amended request of \$320 million. The bill's funding level could require EEOC to furlough all of its 2,720 employees for an estimated three to four weeks or, alternatively, lay off many employees. Our office will work with EEOC to determine how to minimize these adverse effects.

*Civilian Pay Raise:*

H.J. Res. 2 provides a total average 4.1 percent pay raise retroactively (starting from the first pay period in January) to civilian employees, costing \$1 billion more than your proposal to contain civilian pay increases at 3.1 percent. The language allows you to decide how to allocate the 4.1 percent between a base pay increase and a locality pay increase, as you deem appropriate. We will be forwarding to you shortly options for the allocation.

*Wildland Firefighting (Agriculture and Interior):*

The bill fully funds the Administration's request of approximately \$2 billion for wildland firefighting without any contingent emergency funding. It also includes the \$825 million requested in FY 2002, but not provided, to repay funds transferred from other accounts to support firefighting activities in 2002.

**Language Issues**

*Abortion-related Provisions.* Through successful negotiations with the Congress and consistent with Administration policy, the enrolled bill continues current law provisions relating to abortion. In particular, the bill prohibits the expenditure of funds for abortions under the Federal Employees Health Benefits Programs unless the life of the mother is in danger or the pregnancy is a result of an act of rape or incest. While the bill earmarks funding for the United Nations Population Fund at last year's level, it in no way modifies requirements to be in compliance with the long-standing Kemp-Kasten provisions.

*Cuba Sanctions.* Unlike earlier versions of the bill, H.J. Res. 2 does not contain any provisions that would weaken current sanctions against the Cuban government. These provisions were removed after your senior advisors recommended that you veto any bill that contained such changes.

*Forest Service Provisions.* H.J. Res. 2 would prevent administrative appeals or judicial review of the Forest Service's pending decision about a revised management plan that includes an initial recommendation that no additional wilderness should be designated in Alaska's Tongass National Forest. Your request contained no similar provisions.

The enrolled bill includes a "goods for services" provision that would allow private parties to remove brush and other "fuels" to reduce wildfire danger and pay them in the form of trees removed. This provision was not included in the President's request, but is similar to the stewardship contracting provision of the President's Healthy Forest Initiative. However, the Administration's stewardship contract proposal included elements designed to enhance open competition and accountability that are not in the bill, including retaining requirements for appraised value of timber; reporting of full costs related to projects; and use of best value contracting.

*Competitive Sourcing.* The bill includes only report language addressing the Administration's competitive sourcing goals. Unacceptable bill language was removed after your senior advisors recommended that you veto any bill that contained such bill language.

*Other Language Provisions.* Other provisions of H.J. Res. 2 would: extend liability insurance provided under the Price-Anderson Act for commercial nuclear reactors (which expired on August 1, 2002) until December 31, 2003; settle a land claim involving the Pueblo of Sandia and the Federal Government by establishing the Tuf Shur Bien Preservation Trust Area (approximately 10,000 acres) within the Cibola National Forest in New Mexico, thereby recognizing certain Pueblo rights while confirming the status of national forest and wilderness lands; and, effectively prohibit (during FY 2003) the finalization or enforcement of a pending Treasury-Federal Reserve rule that would allow certain financial institutions to engage in real estate brokerage and management.

*Chadha Provisions.* H.J. Res. 2 includes a number of provisions, which, inconsistent with the Supreme Court ruling in *INS vs. Chadha*, purport to require Congressional Committee approval before Executive Branch execution.

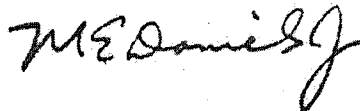
### **Homeland Security Act Amendments of 2003**

H.J. Res. 2 would make a number of amendments to the Homeland Security Act (HSA) of 2002. It would retroactively repeal that Act's amendments to definitions under the National Vaccine Injury Compensation Program, which provides compensation for vaccine-related injuries or deaths. For example, the HSA amended the definition of a "vaccine-related injury or death" to include injury or death associated with an adulterant or contaminant intentionally added to a vaccine if it is listed as a component or ingredient in the vaccine's product license application or label. H.J. Res. 2 also provides that criteria used by the Secretary of Homeland Security to designate a college or university as a center for homeland security are not limited to the criteria set forth in the HSA.

**Recommendation**

H.J. Res. 2 is highly imperfect legislation. The total funding level is a significant improvement over earlier versions of the individual appropriations bills that the Congress tried to pass and many of the funding and language concerns that prompted earlier veto threats have been addressed satisfactorily in this legislation. More than one third of the way through the fiscal year, there is benefit to ending debate over FY 2003 funding levels and moving to urgent future business. Therefore, I join the heads of the affected Departments and agencies in recommending that you sign the enrolled bill.

Sincerely,

A handwritten signature in black ink, appearing to read "M E Daniels Jr", written in a cursive style.

Mitchell E. Daniels, Jr.  
Director

Attachment

### Statement by the President

Today I Have Signed Into Law H.J. Res. 2, the "consolidated Appropriations Resolution, 2003," which contains the remaining 11 annual appropriations acts for fiscal year 2003. The funds appropriated by this bill will provide valuable resources for priorities such as homeland security, military operations, and education.

I am very concerned that the Congress failed to provide over \$1 billion in funds that my Administration requested for State and local law enforcement and emergency personnel, and that much of the funding that the Congress did provide is heavily earmarked for lower-priority programs that are not best designed to protect Americans against terrorism. As a result, the shortfall for homeland security First Responder programs is more than \$2.2 billion. Funds that should have been made available to the Department of Homeland Security are being diverted to programs unrelated to higher-priority terrorism preparedness and prevention efforts. My Administration will use all the tools at its disposal to ensure that as much of this funding as possible is directed toward terrorism preparedness and prevention.

Further, although the funding level in the bill is largely consistent with the agreed upon top line level that I urged the Congress to adopt, the bill is not fully consistent with the agreed upon non-defense discretionary funding levels due to the expanded use of budgetary mechanisms, such as advance appropriations. This bill includes an increase in advance appropriations of \$2.2 billion, which should not be used to evade top line agreements on total discretionary funding. Therefore, the FY 2004 congressional budget allocations should be reduced accordingly and the device should not be repeated in FY 2005. Finally, the bill includes \$3.3 billion for unrequested drought aid and other assistance that is only partially offset by spending reductions in the recently enacted Farm Bill.

In addition, a number of provisions of H.J. Res. 2 are inconsistent with the constitutional authority of the President to conduct foreign affairs, command the Armed Forces, supervise the unitary executive branch, protect sensitive information, and make recommendations to the Congress. Other provisions unconstitutionally condition execution of the laws by the executive branch upon approval by congressional committees.

Thus, the executive branch shall construe as advisory the provisions of the bill that purport to: direct or burden the Executives conduct of international negotiations, such as sections 514, 556, 576, and 577 in the Foreign Operations Appropriations Act; limit the Presidents authority as Commander in Chief, such as language under the heading "Andean Counterdrug Initiative" in the Foreign Operations Appropriations Act and section 609 of the Commerce Appropriations Act; or limit the President's authority to supervise the unitary executive branch, such as section 718 of the Agriculture Appropriations Act and the provisions relating to Office of Management and Budget review of executive branch orders, activities, regulations, transcripts and testimony in the Treasury Appropriations Act.

In addition, the executive branch shall construe provisions that mandate, regulate, or prohibit submission of information to the Congress or the public, such as sections 561(a), 568(a), and 574(d) of the Foreign Operations Appropriations Act and sections 620 and 622 of the Treasury Appropriations Act, in a manner consistent with the Presidents constitutional authority to withhold information that could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. Also, the executive branch shall construe provisions that mandate or prohibit submission of

recommendations to the Congress, such as section 723 of the Agriculture Appropriations Act and the provisions purporting to require submission of a request for a supplemental appropriation in the Interior Appropriations Act, in a manner consistent with the President's constitutional authority to submit for congressional consideration such measures as the President judges necessary and expedient.

Also, the executive branch shall construe as advisory, or as calling solely for notification, the provisions of this bill that purport to require congressional committee approval for the execution of a law. Any other construction would be inconsistent with the principles enunciated by the United States Supreme Court in *INS v. Chadha*. Such provisions include: provisions relating to the "Working Capital Fund," Food and Drug Administration fund transfers, and sections 704 and 719 relating to fund transfers in the Agriculture Appropriations Act; the provision relating to an expenditure plan for the entry-exit system in the Commerce Appropriations Act; and the provisions on transfer of United States Customs Service aircraft, automated commercial environment, business systems modernization, funds transfers within and among Treasury entities, Secret Service protective mission travel, museum construction, high-intensity drug trafficking area and other funding levels, building prospectus funding levels, use of the Federal building fund for emergency repairs and transfers with the fund, unobligated balances for salaries and expenses, office improvements, and law enforcement training facilities in the Treasury Appropriations Act.

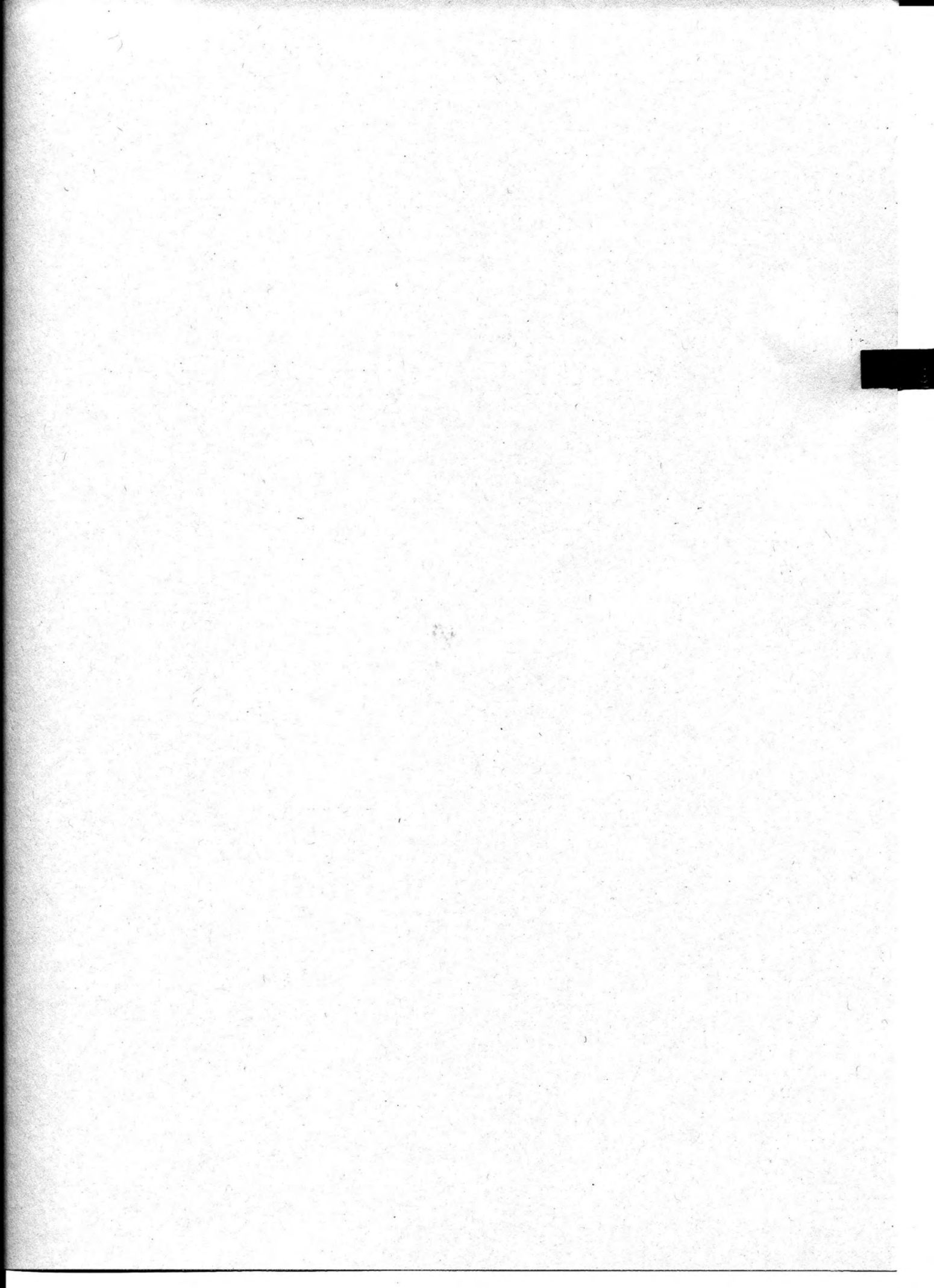
Furthermore, the duty of the President under section 586 of the Foreign Operations Appropriations Act to issue and provide copies of an order relating to consideration of the release of information is assigned to the Attorney General, who shall ensure that the section is implemented in a manner consistent with the President's constitutional authority to withhold information, the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

Finally, to ensure proper respect for the distinct powers of the executive and legislative branches and to ensure effective coordination between them in emergencies, the Attorney General shall serve as the single officer within the executive branch authorized to receive requests from the Chief of the Capitol Police and to approve action by the executive branch in the implementation of section 1017 of the legislative branch Appropriations Act.

GEORGE W. BUSH

THE WHITE HOUSE,

February 20, 2002.



COPY  
FROM ORM

THE WHITE HOUSE

WASHINGTON

MEETING WITH THE SECRETARY OF VETERANS AFFAIRS

Tuesday, March 25, 2003

2:30 p.m. – 2:50 p.m.

Oval Office

Joshua Bolten

I. PURPOSE

To discuss with Secretary Principi issues of importance to the Department of Veterans Affairs (VA) and veterans service organizations.

II. BACKGROUND

You have met individually with members of your Cabinet on a periodic basis.

Secretary Principi has identified several issues of importance that he may raise with you.

- Demand for VA Health Care – In recent years, VA has experienced a dramatic increase in the number of veterans enrolled in its health care system. Despite measures taken to manage this growth in demand, it continues to outpace the growth in resources. Issues driving the demand for growth include more easily accessible VA primary care services, improved quality of services, a generous prescription drug benefit, and conditions around the Nation affecting availability of other health care sources, such as regional collapses of Medicare HMOs. The tremendous growth in demand, coupled with finite resources, continues to hinder VA in providing timely access to health care for all enrolled veterans.
- Enrollment Decision – In January 2003, Secretary Principi suspended health care enrollment for new Priority 8 veterans, the lowest priority group, because these veterans have incomes above established thresholds and medical conditions that are not service-related. The decision was based on the need to reduce waiting times for current users and new enrollees in higher priority groups that consist of service-connected, lower-income, and special needs veterans. VA is working with the Department of Health and Human Services to offer a “VA+Choice Medicare” plan for Priority 8 veterans aged 65 and older who cannot enroll for VA health care. VA would participate as a Medicare+Choice provider, and eligible veterans would be able to obtain their care from VA with Medicare funding.
- Prescription Drugs – VA’s prescription drug benefit does not cover pharmaceuticals prescribed by physicians who have no affiliation with VA. The Congress is currently considering four bills that would require VA to provide veterans with non-VA prescriptions. Secretary Principi does not support any of these bills as they are currently drafted. However, VA is interested in exploring options that would allow it to fill

prescriptions of enrollees who are unable to obtain timely services until VA can eliminate its waiting list.

- Capital Asset Realignment – VA is conducting a national study of its hospitals and clinics so it can realign VA services to meet veterans' needs over the next 20 years. An independent advisory commission has been established to review the study's recommendations and submit a final plan to VA in October 2003. The recommendations are expected to be controversial because they likely will result in proposals for closings or consolidations of VA facilities. The Congress, veterans service organizations, and other stakeholders have been kept apprised of developments as this review has progressed.
- Disability Claims Processing – VA has increased the speed and accuracy of claims processing by adding more personnel to its compensation and pension program. This increase in personnel has enabled VA to process an average of 11,000 more claims each month than they receive. At this rate, VA appears to be on track to reach Secretary Principi's target of reducing pending claims to 250,000 by the end of FY 2003. VA ended the month of February 2003 with 311,000 total pending claims –121,000 below their peak inventory of 432,000.

#### PARTICIPANTS

Anthony Principi, Secretary of Veterans Affairs  
Andrew Card, Chief of Staff  
Joshua Bolten, Deputy Chief of Staff for Policy  
Brian Montgomery, Cabinet Secretary

#### IV. PRESS PLAN

Closed

#### V. SEQUENCE OF EVENTS, REMARKS, AND ATTACHMENTS

N/A





THE DIRECTOR

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

April 15, 2003

MEMORANDUM FOR THE PRESIDENT

SUBJECT: H.R. 1559, Emergency Wartime Supplemental Appropriations Act, 2003

Sponsors: Representative Young (R), Florida  
Senator Stevens (R), Alaska

Last Day for Action

April 26, 2003 – Saturday. While the last day for action is April 26th, your signature is recommended as soon as possible.

Purpose

The enrolled bill provides supplemental FY 2003 appropriations for military operations, relief and reconstruction activities in Iraq, ongoing operations in the global war on terrorism, enhancements to the safety of U.S. diplomats and citizens abroad, support for U.S. allies critical to succeeding in the war, and homeland security protection and response measures.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval (assumed)
Department of State	Approval (assumed)
Department of Homeland Security	Approval (assumed)
Other affected departments and agencies	Approval (assumed)

Overall Funding Level

The enrolled bill provides over \$79 billion in FY 2003 budget authority, including over \$3 billion for assistance to the airline industry. Excluding the aviation funding, the bill exceeds your request by over \$1 billion.

In response to your request of March 25th, the Congress acted expeditiously in providing necessary levels of funding for Department of Defense operations in Iraq, associated relief and reconstruction efforts, and emergent homeland security requirements. While H.R. 1559 restricts the flexibility over funding you requested and contains other objectionable provisions, on balance, the enrolled bill is acceptable and I recommend that you sign it.

The conference report on H.R. 1559 was deemed passed by the Senate on April 11<sup>th</sup> and it passed the House of Representatives by voice vote on April 12<sup>th</sup>.

#### Department of Defense (DOD)

H.R. 1559 provides \$62.6 billion, the same level of funding you requested, to address the costs related to military operations in Iraq. While the overall funding level for operations in Iraq sufficient, the bill reduces the Department's flexibility by committing a majority of funds to the base appropriations accounts rather than to a more flexible account as was requested. Of the total amount provided, Congress allocated approximately \$46 billion to specific accounts within DOD

You requested \$59.9 billion in a Defense Emergency Response Fund that would have provided substantial flexibility to the Department of Defense in the use of funds. The enrolled bill sharply limits this concept, providing \$15.7 billion in a similar but renamed "Iraq Freedom Fund," of which approximately \$10.5 billion is flexible. The remaining \$5.2 billion provides funding for activities the Administration supports, including: payments to key cooperating nations, such as Pakistan and Jordan; natural resources risk remediation to cover the costs of oil well fires and oil distribution; Coast Guard operations; research, development, test, and evaluation activities; counterterrorism activities; and, financing combat, stability operations, force reconstitution, replacement of munitions and equipment, fuel, classified programs, and other costs. The Secretary of Defense may transfer these funds to the appropriate accounts with five days notice to the Congress. While your Administration would have preferred the flexibility for this funding as requested, the funding supports activities that are acceptable and generally would have been funded.

The bill increases imminent danger pay and family separation allowances for members of the Armed Services for the current fiscal year. You did not request these increases, which total over \$850 million. In addition, the bill makes available up to \$400 million for the Coast Guard. Because the conferees did not provide additional funding to cover these increases, the Department must absorb these costs.

H.R. 1559 provides some flexibility to the Department by providing \$2 billion in general transfer authority of funds appropriated in the supplemental bill. This is in addition to the \$2 billion remaining in general transfer authority provided to the Department in the regular FY 2003 Defense Appropriations Act. However, any use of this transfer authority is conditioned upon by longstanding custom, agreement by four Congressional Committees. The aggregate transfer authority is roughly half of that requested, but is historically higher than ever before.

The conferees rejected your request of \$150 million to fund aid to military indigenous forces in other countries. The enrolled bill provides authority to reimburse the Military Services for their expenses to date for the Afghan National Army and the Free Iraqi Forces. The bill also includes \$34 million for drug interdiction and counter-drug activities, as you requested.

#### International Affairs

On balance, the enrolled bill upholds your request to support key coalition partners in the conflict with Iraq and in the global war on terrorism.

H.R. 1559 includes \$2.47 billion appropriated to an account for you for the Iraq Relief and Reconstruction fund with acceptable language that allows you to transfer funds to those agencies that you determine most appropriate to implement specific relief and reconstruction efforts.

The enrolled bill provides \$2.4 billion for the Economic Support Fund (ESF): \$0.7 billion, as requested, for Jordan; \$0.3 billion, as requested, for Egypt; up to \$1 billion, as requested, for Turkey; with language that restricts the funds if the Secretary of State determines that the government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, facilitating humanitarian assistance, or has unilaterally deployed forces into northern Iraq. The bill also includes \$167 million for Afghanistan to support security and economic growth and to complete the Kabul-Kandahar road by December 2003. The ESF resources in the bill will not fully fund your request for the Middle East Partnership Initiative or for programs in Gaza and the West Bank.

The Foreign Military Financing Program receives \$2.1 billion, including \$1 billion for Israel under the normal early disbursement procedures; \$406 million for Jordan; \$170 million to train the Afghan National Army; and \$175 million to assist Pakistan with border security in the fight against terrorism.

The enrolled bill provides loan guarantee authority, as you requested, for Israel (\$9 billion in face value), Turkey (\$8.5 billion, which can also be provided as a direct loan), and Egypt (\$2 billion). Turkey and Egypt could use the additional ESF funding provided in the bill to pay fees covering the cost of the guarantees, while Israel can use previously provided ESF resources or other resources to cover its fees.

H.R. 1559 also includes: \$369 million in unrequested P.L. 480 food aid, of which \$69 million is to reimburse the Bill Emerson Humanitarian Trust for food shipped to Iraq or to address other humanitarian crises; \$98 million for State Department diplomatic and consular programs, including reestablishing the mission in Baghdad, and \$50 million to cover costs of evacuating U.S. government employees and American citizens overseas, slightly below the amounts requested. The conference agreement provides \$150 million for embassy construction, including \$61 million for temporary Baghdad facilities, compared with a \$20 million request, and an unrequested \$78 million for facilities acquisition and security upgrades in Rome.

The enrolled bill does not include the \$150 million in funding requested for a new Emergency Fund for Complex Foreign Crises intended to provide flexible funding for unforeseen global needs and requirements. In addition, the bill provided only half of your \$200 million request for Peacekeeping Operations.

### Homeland Security

*Department of Homeland Security (DHS):* H.R. 1559 provides a total of \$6.7 billion for DHS. This includes \$2.4 billion in unrequested funds for direct grants to airlines, which is discussed in more detail below. Excluding aviation assistance, the bill provides \$4.3 billion for DHS, \$0.8 billion above the requested level. It includes \$2.1 billion for DHS operations, appropriating most of the funds directly to DHS bureaus rather than to the flexible

Counterterrorism Fund, for which you requested \$1.5 billion. The bill also provides \$2.2 billion to the Office for Domestic Preparedness (ODP), \$0.2 billion above your request, for assistance to State and local governments for critical infrastructure protection and first responder preparedness activities.

The bill allocates funds directly to DHS' components to address the heightened threat level due to the war in Iraq, including: \$333 million for the Bureau of Customs and Border Protection, \$170 million for the Bureau of Immigration and Customs Enforcement, \$665 million for Transportation Security Administration (TSA) Operations, \$628 million for the Coast Guard (of which \$400 million is provided through DOD), \$150 million for the Counterterrorism Fund, and \$100 million for the Emergency Preparedness and Response Directorate. The bill includes a substantial number of earmarks, directing funds to hiring, grants, and other activities that are not directly related to the conflict in Iraq. In TSA, for example, \$235 million is solely for airports to retrofit terminals to install in-line baggage screening systems. Further, the bill does not provide the requested mechanism to fund homeland security activities outside of the Departments of Homeland Security and Justice. The Administration sought this flexibility to address needs that may arise in areas such as food safety, public health monitoring, and infrastructure protection.

Within the \$2.2 billion provided for ODP, the allocation of funds is acceptable: \$1.3 billion provided for ODP's basic grant program to the States with 80 percent of the funds going to localities; \$200 million for grants for critical infrastructure distributed by formula with no less than 50 percent of the funds going to local governments; \$700 million in discretionary grants to address security requirements in "high-threat, high-density urban areas" with critical infrastructure; and \$30 million in technical assistance. The bill and accompanying report impose deadlines for awarding State funds within 60 days, with local funds transferred no less than 45 days later. Meeting these targets will depend on prompt and accurate grant applications from State and local agencies. The bill also includes unrequested funding for a new interoperable communications grant program in the Emergency Preparedness and Response Directorate, which the Administration will use to coordinate with similar efforts in both ODP and Justice's Community Oriented Policing Services (COPS) Office.

*Department of Justice (DOJ):* \$500 million was requested for DOJ, to be appropriated to the Department's Counterterrorism Fund. The request would have provided the Attorney General with the flexibility to make this funding available to any DOJ component, subject to Congressional notification. In contrast, the bill provides \$497 million, but appropriates all but \$20 million directly to Departmental components with the Federal Bureau of Investigation the primary recipient (\$367 million). In addition to the lack of flexibility for the Attorney General, the bill provides \$55 million to the Office of Justice Programs for grants to State and local law enforcement for interoperable communications equipment, which duplicates programs in DHS. The Administration will work to ensure coordination of this funding with DHS programs.

*Bioterrorism and Public Health:* The enrolled bill includes \$162 million for bioterrorism and public health activities at the Department of Health and Human Services (HHS), including: \$16 million in unrequested funding for the Centers for Disease Control and Prevention to address Severe Acute Respiratory Syndrome; \$100 million to assist State and local health authorities with the costs of administering the smallpox vaccine to first responders and health care workers; and \$42 million for a smallpox vaccine compensation fund, provided that legislation establishing such a fund is enacted. Both the House and the Senate passed a smallpox compensation bill on April 11, 2003.

*Unanticipated Needs:* The bill does not include the \$250 million you requested in the Executive Office of the President for Unanticipated Needs. This would have provided you with a flexible source of funding to address non-DHS, non-DOJ homeland security needs, including food safety. The bill also weakens the Secretary of Health and Human Service's authority to transfer funding within HHS, limiting flexibility. We are continuing to explore what flexibilities remain to address non-DHS, non-DOJ homeland security needs.

#### Airline Assistance

The enrolled bill provides over \$3 billion in assistance to U.S. flag air carriers that was not included in your original request to the Congress. The bill suspends passenger security and air carrier security fees from June 1 through September 30, 2003, and provides \$2.4 billion for direct airline grants, of which the first \$100 million is to reimburse carriers for cockpit door hardening. Language in the bill directs that the remaining grants be distributed based on each carrier's proportional share of aviation security expenses paid or collected as of the date of enactment of the bill. Airlines may use the funds for any purpose that they wish, although the report accompanying the bill indicates that airlines should use the funds for security purposes to the greatest extent possible. The bill directs TSA to administer the program and directs TSA to deny grant funds to any airline if the two most highly compensated executive officers receive 2003 pay that exceeds 2002 base pay.

The final version of the bill also retains two provisions that were included in the Senate version of the bill: the provision that would extend aviation war risk insurance by one year -- from the end of FY 2003 to the end of FY 2004 -- and the provision that would extend airline worker unemployment compensation by 26 weeks. Specifically, the enrolled bill provides up to 39 weeks of Temporary Extended Unemployment Compensation (TEUC) to airline and airline-related workers (those employed at an airport or by air carrier suppliers) who have exhausted their regular state unemployment benefits. These targeted benefits extend to December 29, 2003, while the 13 weeks of TEUC benefits available for other workers end May 31, 2003. Eligible recipients must have lost their jobs due at least partially to airline service reductions or airport closures related to terrorist action, security measures, or military conflict with Iraq. The Department of Labor objected to this provision and estimates it will cost \$310 million.

#### Other Funding Issues

*Corporation for National and Community Service (CNCS):* The enrolled bill includes your request for a \$64 million deficiency appropriation to liquidate previous years' obligations in the AmeriCorps program. It does not lift the cap limiting the AmeriCorps to enrolling only 50,000 new members this year, nor does it include the transfer authority you sought for this program. It also directs that \$2.5 million of FY 2003 funds be made available for the agency's Chief Financial Officer to adopt financial reforms.

*Equal Employment Opportunity Commission (EEOC):* The bill provides \$15 million for EEOC, which is consistent with your requests of January and April. This supplemental funding will ensure that EEOC is able to avoid furloughing staff in FY 2003, which would have disrupted its ability to conduct its enforcement responsibilities.

*Food Research Facility:* H.R. 1559 includes an unrequested \$110 million for continued construction of a food and bio-safety research facility in Ames, Iowa.

*Legislative Branch:* The bill includes a total of \$136 million for the Legislative Branch, \$11 million above the proposal transmitted on March 25th. The funds will support immediate and emerging terrorism related prevention and response requirements.

*Maritime Guarantee Loan Program (Title XI):* The bill includes an unrequested level of \$25 million. Funding for this program is contingent upon implementation of reforms outlined in a March 27, 2003, Inspector General audit.

*National Commission on Terrorist Attacks upon the United States:* H.R. 1559 includes \$11 million to cover all costs of the Commission's investigation of the tragedy of September 11, 2001. On April 3, 2003, you submitted an Emergency Response Fund (ERF) reallocation proposal to Congress that would have transferred \$9 million to the Commission. Given that funds have now been appropriated for this Commission in this bill, we will ensure that funding proposed for reallocation is retained in the ERF for future use.

*National Oceanic and Atmospheric Administration (NOAA):* The conferees provided an additional \$65 million for NOAA weather satellites, which had been requested in your FY 2003 Budget. One component of this funding is for the joint NOAA-DOD National Polar-orbiting Operational Environmental Satellite System.

*Veterans Affairs:* The bill includes an unrequested \$100 million for processing of claims of veterans injured in the war with language permitting the transfer of these funds for medical care.

#### Language Issues

*Air Transportation Services:* H.R. 1559 includes an objectionable provision that limits the ability of certain air carriers to compete for postwar U.S. military airlift contracts. This provision was included in the Senate version of the bill and while it was modified in conference, it is still objectionable.

*Algiers Accords:* Through successful negotiations, the enrolled bill does not include an objectionable Senate provision that sought to amend the Foreign Sovereign Immunities Act by permitting suits against Iran by the former Tehran embassy hostages even though such suits are expressly barred by the Algiers Accords.

*Columbia Orbiter Memorial Act:* The enrolled bill requires the Secretary of the Army to construct a memorial marker in Arlington National Cemetery honoring the crew of the Columbia Orbiter who died on February 1, 2003.

*Department of Health and Human Services (HHS) Transfer Authority:* H.R. 1559 amends Section 207 of the HHS General Provisions in P.L. 108-7, the FY 2003 Labor, Health and Human Services, and Education Appropriations Act, to prohibit the HHS Secretary from using the funding transfer authority among HHS programs in Acts other than the Labor, Health and Human Services, and Education Appropriations Act. P.L. 108-7 had accepted your freedom to manage transfer authority expansions.

*Organic Labeling:* The enrolled bill includes a Senate provision that amends existing law to require the Secretary of Agriculture to issue regulations allowing seafood caught in the wild be classified as "organic" for purposes of consumer labeling.

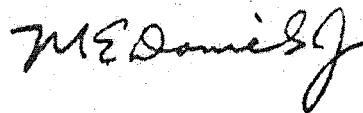
*Repatriation:* The bill eliminates the \$1.0 million cap, as you requested, in FY 2003 on funds available for HHS to provide assistance to ill or destitute U. S. citizens who are returned from foreign countries due to war, threat of war, invasion or similar crisis -- as was done in 1991 during the Persian Gulf War when the cap was lifted and \$1.8 million was utilized for such purposes.

*United States Air Force Academy Review Panel:* H.R. 1559 requires the Secretary of Defense to appoint members to a panel to review and report to the Secretary and to the Congress on the circumstances that led to the allegations of sexual misconduct at the United States Air Force Academy and on any recommendations.

Recommendation

The total funding level in H.R. 1559 exceeds your request by more than \$4 billion (over \$3 billion of this difference is for airline assistance). The funds provided in the bill should be adequate to support your request for Operation Iraqi Freedom, the global war on terrorism, and homeland security measures, as well as other critical needs. However, the limited flexibility the bill provides may necessitate subsequent requests to the Congress to shift funds from one account to another account. I join the heads of the affected Departments and agencies in recommending that you sign the enrolled bill.

Sincerely,



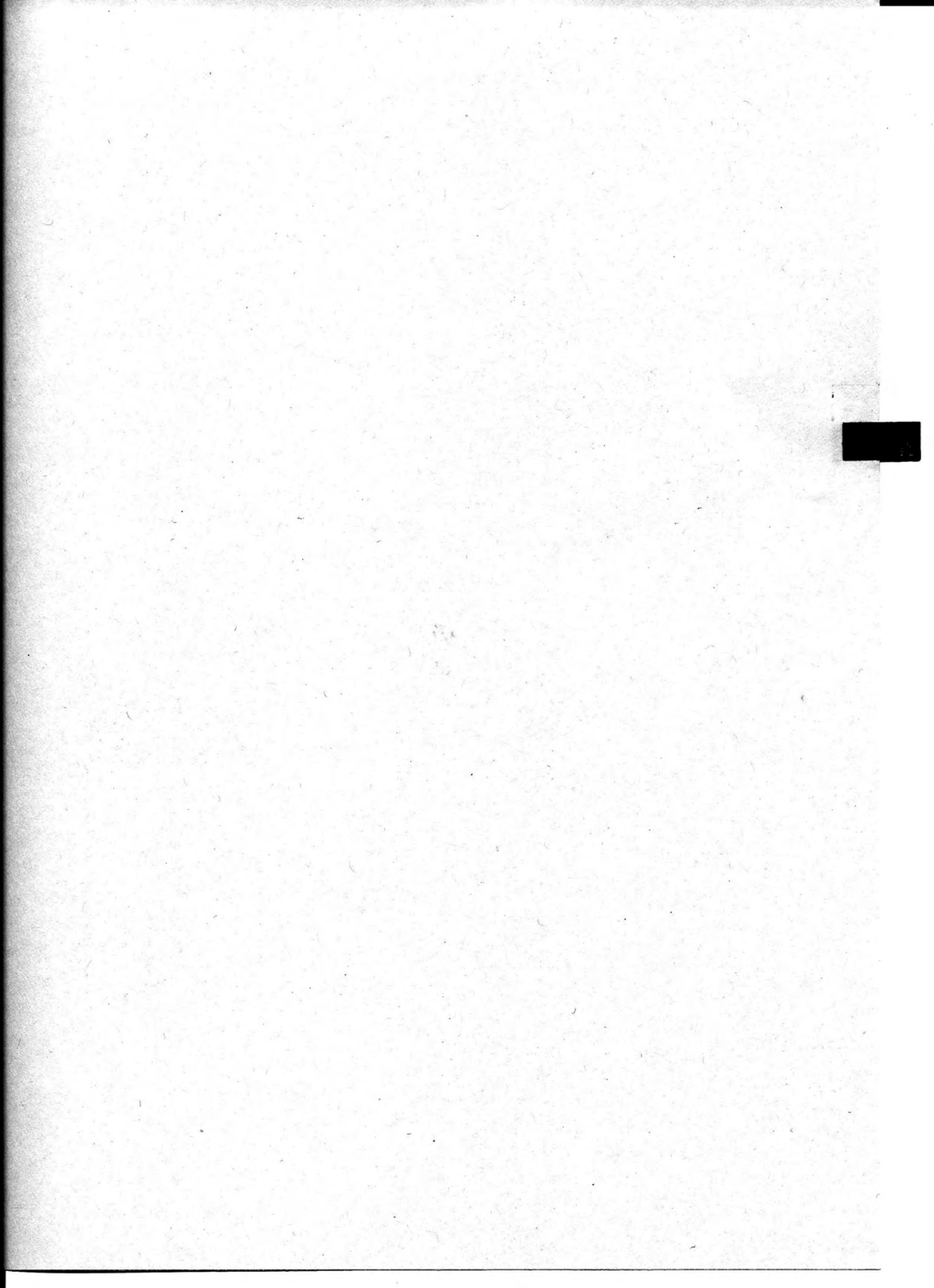
Mitchell E. Daniels, Jr.  
Director

For Immediate Release  
Office of the Press Secretary  
April 16, 2003

### **Statement by the Press Secretary**

On Wednesday, April 16, 2003, the President signed into law:

H.R. 1559, which provides supplemental FY 2003 appropriations for military operations, relief, and reconstruction activities in Iraq; ongoing operations in the global war on terrorism; enhancements to the safety of U.S. diplomats and citizens abroad; support for U.S. allies critical to succeeding in the war; and homeland security protection and response measures.





President's Task Force To Improve  
Health Care Delivery For Our Nation's Veterans

May 26, 2003

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

We take great pleasure in presenting this *Final Report* of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans. This report is submitted in accordance with the provisions of Executive Order 13214, dated May 28, 2001, and is dedicated to the memory of former Congressman Gerald B. Solomon, an original Task Force Co-Chair, a genuine patriot, and a staunch advocate for veterans.

As cited in our *Interim Report*, the Task Force was created to recommend bold, practical, and specific reforms in the delivery of health care to beneficiaries of the Department of Veterans Affairs and the Department of Defense. This report reflects the collective thinking of 15 Members with a wide diversity of viewpoints on how to improve beneficiary health care delivery. Task Force Members share a common desire to identify and address barriers to collaborative efforts between the Departments and offer this report as an alternative to the status quo in veterans' health care. The Task Force believes the recommendations in this report represent strategies for use in addressing barriers to collaboration and, when implemented, will complement and enhance your management agenda for VA and DOD.

As we submit this report, we express our appreciation for the cooperation and openness displayed by leaders and employees in both Departments, and in numerous field activities around the Nation. Many dedicated and enthusiastic people in VA and DOD have helped shape our findings and recommendations. Additionally, we have received great support from veterans' service organizations and military advocacy groups. We sincerely hope our recommendations will facilitate ongoing efforts to enhance the delivery of health care for our Nation's veterans.

Respectfully,

GAIL R. WILENSKY, Ph.D.  
Co-Chair

JOHN PAUL HAMMERSCHMIDT  
U.S. Congress, 1967-1993  
Co-Chair

## EXECUTIVE SUMMARY

In May 2001, President George W. Bush signed Executive Order 13214 creating the President's Task Force (PTF) to Improve Health Care Delivery for Our Nation's Veterans. The charge to the Task Force was to identify ways to improve health care delivery to Department of Veterans Affairs (VA) and Department of Defense (DOD) beneficiaries through better coordination and improved business practices.

For more than two decades, there have been numerous efforts by Congress and the Executive Branch aimed at increasing collaboration and sharing between the two Departments in order to improve the efficiency and cost effectiveness of health care delivery for beneficiaries. Providing all enrolled veterans, including military retirees, with timely access to the full range of health benefits earned through service to their country is a national obligation, whether during their military service or once they have achieved veteran status.

As the Task Force visited numerous VA and DOD health care facilities around the country, conducted focus groups with individual beneficiaries, and met with many beneficiary organizations, it became clear that the current mismatch in VA between demand and available funding not only impedes collaboration efforts with DOD but that, if unresolved, the resultant delay in veterans' access to care could threaten the quality of VA health care.

Although enrolled veterans technically have access to the VA health care system, long waiting times for appointments with health care providers continue to be problematic for a significant number of veterans. As of January 2003, at least 236,000 veterans were on a waiting list of six months or more for a first appointment or an initial follow-up—a clear indication of lack of sufficient capacity or, at a minimum, a lack of adequate resources to provide the required care. While the overall number of veterans eligible for care in VA facilities is expected to decrease over the coming years, the actual number of beneficiaries seeking VA care is projected to increase because of factors outside of VA.

A confluence of events over the past decade—economic, budgetary, and structural—has created increased demands for, and pressures on, the VA and DOD health care systems. With the rising cost of health care and insurance premiums, veterans have been seeking alternative ways to pay for their health care. This phenomenon, along with the absence of an outpatient

pharmacy benefit under Medicare, appears to be causing significant numbers of veterans to seek health care from VA.

Finally, legislative, administrative, and structural changes have increased demand for VA care. Following the passage of the Veterans' Health Care Eligibility Reform Act of 1996, VA's mission moved from primarily treating veterans with service-connected disabilities and indigent veterans to offering a comprehensive health benefit to all enrolled veterans. The Veterans' Millennium Health Care and Benefits Act, enacted in 1999, further increased demand by expanding benefits. Funding provided through the current budget and appropriations process for VA health care delivery has not kept pace with demand, despite efforts to increase efficiencies and focus health care delivery in the most cost-effective manner.

### **Organizing Principles**

In developing this report, the Task Force established four principles on which to organize its analyses and recommendations:

1. Committed leadership is essential to achieve VA/DOD collaboration to improve health care to veterans, including military retirees.
2. To provide timely, high-quality care, it is important to have seamless transition of information across the full lifecycle of health care for each veteran, especially at the point when he or she moves from military service to veteran or retiree status.
3. VA and DOD collaboration can improve quality, access, and efficiency of health care delivery by pooling resources, eliminating administrative barriers, and implementing change.
4. Despite the importance of collaboration in overcoming modest or temporary capacity shortfalls or surges in demand, the mismatch in VA between demand for access and available funding is too large to be solved by collaboration alone. Thus, the only effective way to address the growing problem of access in VA is to reduce the apparent mismatch between demand and funding.

### **Leadership**

The Task Force is pleased with the current VA/DOD efforts on collaboration and sharing and with the organizational structures created to facilitate such efforts. Senior leadership of the Departments are clearly engaged, especially through the interagency leadership

committee. It is the responsibility of the leadership of the two Departments, starting with the Secretaries, to continue to demand actions that will ensure the success of VA/DOD collaboration.

VA and DOD leadership need to clearly and jointly articulate what is expected as the end state of collaboration and sharing. The goal is not collaboration for mere collaboration's sake, but rather, through such activity, to improve access to care and reduce the overall cost of furnishing services. There can be no ambiguity in the description of clear and measurable goals for improved cooperation.

Once those in leadership positions have communicated their directives, the Departments should issue plans in a timely manner, including performance expectations, measurements, and time lines. These plans should be communicated in a consistent manner to all levels of the two Departments and should be regularly reviewed for outcomes. To foster ongoing accountability, there should be an annual report from the interagency leadership committee to the Secretaries on the results of performance in the area of collaboration and sharing and next year's goals, including progress in implementing the recommendations in this report.

### **Seamless Transition to Veteran Status**

VA and DOD responsibility for an individual's health begins as soon as the individual enters the Armed Forces. An important first step would be to gather baseline medical information upon entry into the military and capture it in an electronic medical record that would, at a later point, be able to readily and easily exchange appropriate health information with VA in mutually understood and usable formats. As no such capability exists today, the two Departments must collaboratively develop appropriate electronic medical records that can function in an interoperable, bi-directional manner.

During military service, information relevant to a service member's deployments, occupational exposures, and health conditions should follow the service member through his or her military career. Better recording, tracking, and reporting of occupational health data will improve the research base for understanding the etiology of service-related disorders, assist in benefits determinations, and improve the overall health of today's veterans as well as those who will follow them.

Once an individual separates from military service, the process for determining eligibility for veterans' benefits, assessing health status, and receiving care through the VA health care system should be seamless, timely, and accurate. These goals can only be accomplished through systems that are standards-based and coordinated between

VA and DOD. When an individual is separated from military service, he or she is issued a DD214, which is needed to access health care services in the VA system. VA has identified untimely access to the service member's DD214 as a major factor delaying determination of benefits. To ease the transition from service member to veteran status, VA and DOD should:

- implement by fiscal year 2005 a mandatory single separation physical as a prerequisite of promptly completing the military separation process; and
- expand the "one-stop shopping" process to include, at a minimum, a standard discharge exam, full outreach, claimant counseling, and when appropriate, referral for a VA Compensation and Pension examination and follow-up claims adjudication and rating. Upon a service member's separation, DOD should transmit an electronic DD214 to VA.

Both VA and DOD will continue to face significant issues in dealing with veterans who develop health conditions as a result of possible occupational exposures and hazards during military service. VA and DOD should:

- expand their collaboration to identify, collect, and maintain data needed to:
  - 1) recognize, treat, and prevent illness and injury resulting from occupational exposures and hazards experienced while serving in the Armed Forces; and
  - 2) conduct epidemiological studies to understand the consequences of occupational exposures and hazards;
- by fiscal year 2004, initiate a process for routine sharing of each service member's assignment history, exposures to occupational hazards, location, and injuries information; and
- jointly issue a publicly available annual report on Force Health Protection.

In addition, the President should direct VA and DOD to implement continuous health surveillance and research programs to identify the long-term health consequences of military service in high-risk occupations, settings, or events.

### **Removing Barriers to VA/DOD Collaboration**

Significant institutional barriers to collaboration arise from the ways VA and DOD—and the three Military Departments—develop and deploy their resource plans. These include the budgeting process, health care delivery plans, acquisition plans, and facility plans.

The PTF makes a series of recommendations to remove barriers and improve collaboration, including:

- revise health care organizational structures to provide more effective and coordinated management of the two health care systems, enhance overall health care outcomes, and improve structural congruence;
- integrate clinical pharmacy initiatives through the coordinated development of a national joint core formulary and a single, common clinical screening tool by fiscal year 2005;
- work with industry to establish a uniform methodology for medical supplies and equipment identification and standardization in order to facilitate additional joint contracting initiatives;
- identify functional areas where the Departments have similar information requirements in order to re-engineer, where necessary, business processes and develop the specific functional information technology requirements needed to support them;
- implement facility lifecycle management practices on an enterprise-wide basis;
- declare that joint ventures are integral to the standard operations of both Departments and use the existing joint venture organizations as laboratories for developing future inter-departmental policy frameworks; and
- work together to identify and address staffing shortfalls, develop consistent clinical scopes of practice for non-physician providers, and ensure that the two provider credentialing systems can interface.

### **Eliminating the Mismatch Between Demand and Funding**

Although the measures described above might help staff and facilities in some areas overcome modest or temporary capacity shortfalls or surges in demand, and standardization and compatibility of information systems and medical records between VA and DOD will provide lasting improvements in health care delivery to veterans, the apparent mismatch in VA between demand for access and available funding is too large to be solved by collaboration alone. The PTF is concerned that this mismatch affects the delivery of timely health care and impedes efforts to improve collaboration between VA and DOD.

PRESIDENT'S TASK FORCE TO IMPROVE HEALTH CARE DELIVERY FOR OUR NATION'S VETERANS

In recent years, because of the entrance of veterans with income levels above VA's means test threshold with no compensable service-related disabilities (former Priority Group 7) into the VA health care system, and with funding not keeping pace with demand, many veterans in VA's traditional constituency, those veterans with service-connected disabilities and indigent veterans (Priority Groups 1 through 6), have been unable to obtain health care within VA's established access time frames. This situation is unacceptable.

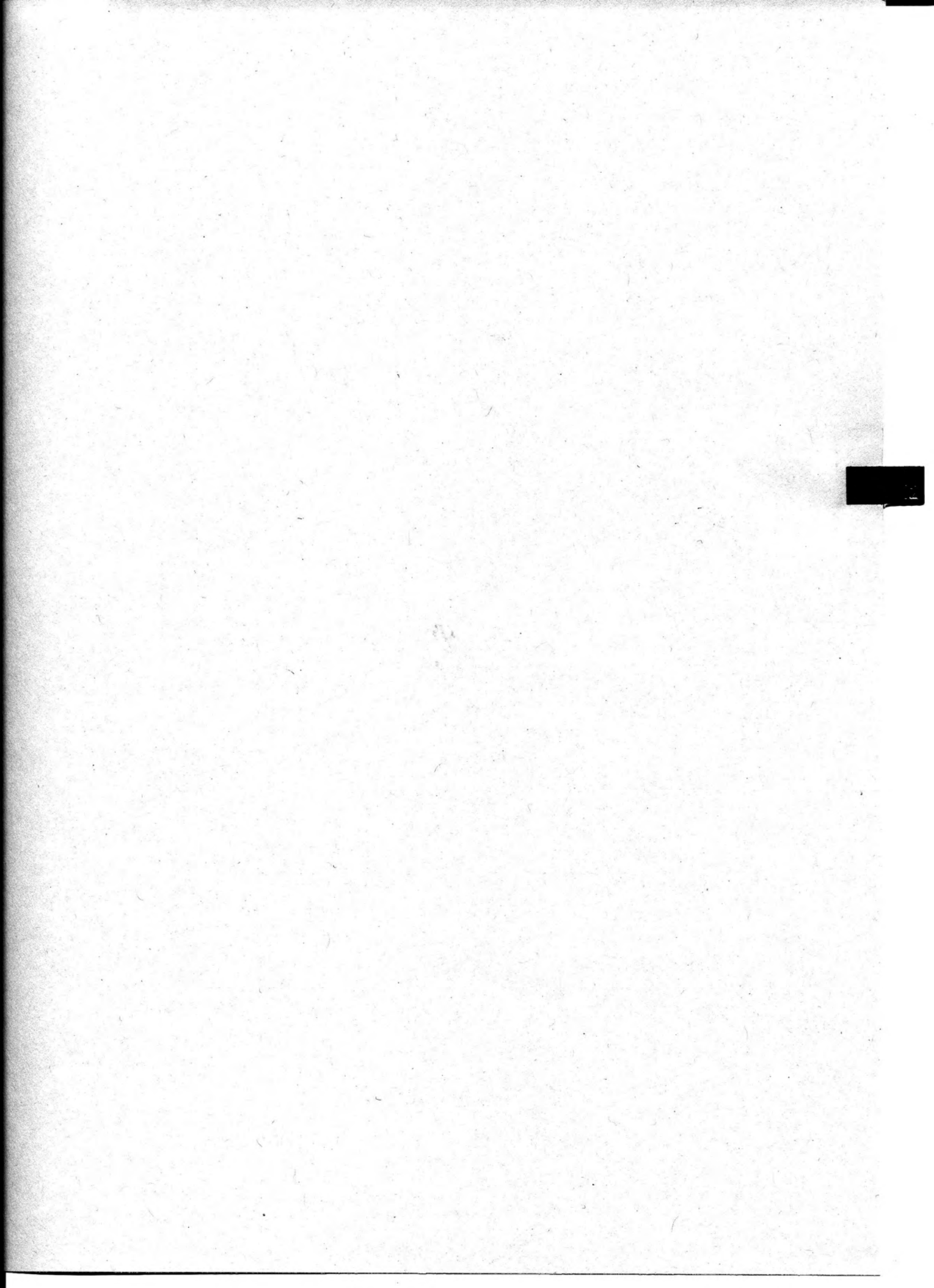
The PTF developed recommendations in two separate but inextricably related areas: funding delivery of care within the access standard for Priority Groups 1 through 7 (new) and the need to clarify eligibility and benefits for Priority Group 8.

Congress and the Executive Branch must work together to provide full funding to meet demand, within VA's access standards, for Priority Groups 1 through 7 (new). The Task Force offers examples for consideration to modify the process used to fund health care delivery for these veterans. The Task Force also recommends that VA be accountable for meeting its established access standards; when appointments cannot be offered within the standard, the Department should be required to offer an enrolled veteran an appointment with a non-VA provider.

The Congress and the Executive Branch must resolve the status of veterans with income levels above VA's means test threshold with no compensable service-related disabilities (Priority Group 8).

For many years, there has been little disagreement on the need to improve collaboration and sharing between the two Departments. The structures needed to organize and implement collaboration and sharing are now in place, and current leadership has demonstrated a commitment to furthering this goal. What is needed is the will and focus to implement and sustain change.

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## **Veterans Day, 2003**

A Proclamation by the President of the United States of America

The willingness of America's veterans to sacrifice for our country has earned them our lasting gratitude. On this, our Nation's 50th annual Veterans Day observance, we celebrate and honor the patriots who have fought to protect the democratic ideals that are the foundation of our country.

When the armistice ending World War I was signed on November 11, 1918, more than 4.7 million Americans put down their arms and turned to the work of strengthening our Nation. The end of that first global conflict was initially commemorated as Armistice Day. In 1954, the Congress renamed the day as Veterans Day to recognize all those who have served in our Armed Forces.

Throughout our history, loyal citizens from every corner of America have willingly assumed the duty of military life. And time after time, in conflicts across the globe, they have proven that democracy is mightier than tyranny. From World War I and World War II, to the conflicts in Korea, Vietnam, and the Persian Gulf, to the recent battles in the war on terror, our military has built a great tradition of courageous and faithful service. Our veterans have helped bring freedom to countries around the world. Free nations and peoples liberated by American troops are grateful for the long, distinguished line of American veterans who have come to their aid.

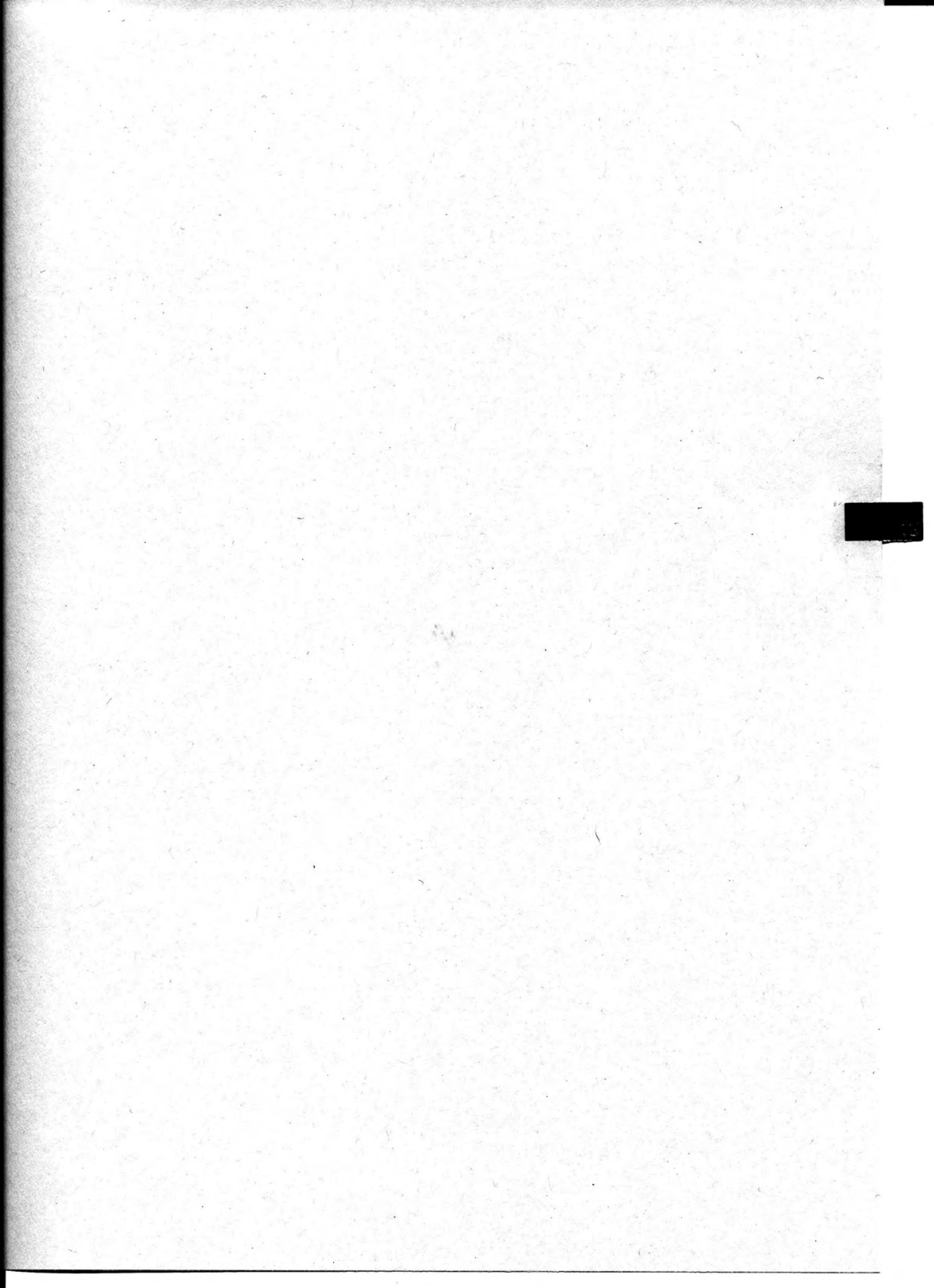
Today, our veterans inspire new generations of Americans as we work to defeat terrorism and advance peace. In respect for and recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor veterans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim November 11, 2003, as Veterans Day and urge all Americans to observe November 9 through November 15, 2003, as National Veterans Awareness Week. I encourage all Americans to recognize the valor and sacrifice of our veterans through appropriate ceremonies and prayers. I call upon Federal, State, and local officials to display the flag of the United States and to participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with suitable commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of November, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-eighth.

GEORGE W. BUSH

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MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1588 – National Defense Authorization Act for Fiscal Year 2004  
Sponsors – Rep. Hunter (R) CA and Rep. Skelton (D) MO

Last Day for Action

December 3, 2003 - Wednesday. We understand there will be a signing ceremony on Monday, November 24, 2003.

Purpose

(1) Authorizes FY 2004 appropriations for Department of Defense (DoD) programs as well as Department of Energy national security programs; (2) establishes a National Security Personnel System for DoD civilian employees; (3) allows for the concurrent receipt of Department of Veterans Affairs disability benefits and defense retirement benefits for certain military retirees; (4) provides for the Air Force to lease up to 20 aerial refueling tanker aircraft and purchase up to 80; (5) modifies Buy America and related authorities; and (6) authorizes other national security and related activities.

Agency Recommendations

Office of Management and Budget (OMB)	Approval (Signing statement attached)
Department of Defense (DoD)	Approval (Signing statement attached)
Department of Energy (DOE)	Approval
Department of Agriculture	Approval
Department of Justice	Approval
Department of Transportation	Approval
Central Intelligence Agency	Approval
Office of Personnel Management (OPM)	Approval
Department of Homeland Security (DHS)	Approval (Informally)
National Security Council (NSC)	Approval (Informally)
Department of Veterans Affairs (VA)	No objection
Equal Employment Opportunity Commission	No objection
General Services Administration	No objection
Department of Labor	No objection (Informally)
National Aeronautics and Space Administration	No objection (Informally)
Office of Government Ethics	Defers to Defense
Department of Education	Defers to Defense (Informally)

Department of Health and Human Services (HHS)	Defers to Defense (Informally)
Department of Interior	Defers to Defense (Informally)
Department of Commerce	No comment (Informally)
Department of the Treasury	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
Merit Systems Protection Board (MSPB)	No comment (Informally)
Nuclear Regulatory Commission	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Small Business Administration	No comment (Informally)
Department of State	Cites concerns
United States Trade Representative	No recommendation

### Discussion

H.R. 1588 contains, with some modifications, the major proposals in your Fiscal Year (FY) 2004 Budget request for National Defense. Major provisions of the enrolled bill, including the new DoD civilian personnel system, are described below. Other provisions are described in Attachment A and the enclosed agencies' views letters.

During congressional consideration of H.R. 1588, your senior advisors issued veto threats on four issues: Buy America/defense industrial base; concurrent receipt of disability and retirement benefits for military retirees; base realignment and closure; and the expansion of medical care programs to reservists and their dependents. All of these issues, which are summarized below, were modified acceptably.

Appropriations Authorizations. H.R. 1588 authorizes appropriations of \$400 billion for FY 2004 national defense programs (including DoD military programs, DOE national security programs, and other defense-related activities). Excluding supplementals, you requested FY 2004 funding of \$400 billion and Congress enacted appropriations of \$395 billion. A summary table by category is at Attachment B.

National Security Personnel System. The Administration's Defense Transformation for the 21st Century Act proposed a new civilian personnel system, called the National Security Personnel System (NSPS), for the approximately 700,000 DoD civilian employees. Among its features, it provided: (1) significant new authority for the Secretary of Defense to hire and fire employees and to establish a pay for performance system; (2) retention of established merit system and related principles; (3) veterans' hiring preference; and (4) a new streamlined labor relations system with bargaining at the national level. The enrolled bill largely provides the requested authorities, albeit a number of them were modified. For example, H.R. 1588 requires DoD to work jointly with OPM in establishing and adjusting the NSPS, unlike the Administration's proposal, which gave the Secretary of Defense significantly greater latitude. Although H.R. 1588 provides the requested authorities to recruit and hire, assign and reassign, pay, promote, and fire employees under the NSPS, it adds an unrequested limited role for the Merit Systems Protection Board in reviewing DoD decisions.

The enrolled bill also gives DoD authority (consistent with the request) to change its current labor relations system by working with OPM to establish and adjust the new system. DoD is authorized to conduct management-labor negotiations at the national level, instead of the current requirement to negotiate with more than 1360 local labor units. H.R. 1588 adds a feature requiring an independent third party review of bargaining decisions; however, DoD will have substantial discretion to determine who the third party is, as well as the standards and process involved in such a review. It also sunsets the new labor relations system six years after the date of the enrolled bill's enactment to allow Congress the opportunity to review and reauthorize it.

Buy America. The Administration's Defense Transformation for the 21st Century Act proposed expansion of waivers and exemptions from statutory U.S. domestic content and domestic source restrictions to enhance DoD's ability to procure items more efficiently and cost effectively. However, the House-passed bill increased domestic content and domestic source restrictions, particularly in the areas of machine tools, essential defense items, and other named items. These provisions would have impaired DoD's ability to procure products to meet defense needs, increased burdens on U.S. suppliers, undermined international commitments, and damaged relations with allies. The conferees deleted the significant objectionable provisions, agreed to analysis and reporting requirements for critical defense items, and established an incentive program encouraging the use of U.S. machine tools, but did not provide the flexibilities sought by DoD.

Concurrent Receipt. Under current law, the retirement pay of a military retiree is reduced by the amount of any VA disability compensation received. Last year's National Defense Authorization Act (P.L. 107-314) established the combat-related special compensation (CRSC) program to compensate certain retirees by an amount equal to the reduction in retired pay for VA benefits. Eligible retirees included those with at least 20 years of service creditable for retirement and who had incurred a qualifying combat-related disability, which was either: (1) attributable to an injury for which the service member was awarded the Purple Heart and is rated 10 percent or more disabling; or (2) rated at 60 percent or more disabling. CRSC payments are currently paid with DoD discretionary funds like other special pays. The Senate-passed bill authorized concurrent receipt of VA disability compensation and military retirement pay for all retirees at an estimated cost of almost \$60 billion over ten years.

As modified in conference, the enrolled bill repeals the prohibition on concurrent receipt for only those retirees who have completed at least 20 years of service creditable for retirement and have incurred a service-connected disability that is rated by VA at 50 percent or higher. The full repeal for these retirees will be phased in over a ten-year period starting January 1, 2004. The CRSC program is expanded to retirees with all levels of combat-related disabilities. Retirees who qualify for both the expanded CRSC and full repeal will have to choose one or the other. Qualifying guardsmen and reservists will also now be eligible for CRSC or concurrent receipt. The estimated ten-year cost of these benefits is almost \$29 billion, which is to be paid out of DoD's Military Retirement Trust Fund. DoD would typically have to pay additional funds from its discretionary budget to the Trust Fund to pay for the benefit increases for its current military members. However, the enrolled bill stipulates that the Treasury General Fund will make the additional DoD payments as well as the payments for CRSC program benefits.

H.R. 1588 also calls for the formation of a commission to review the VA benefits system and provide recommendations for revising the system. The commission will have 13 commissioners, more than half of whom must be highly decorated veterans. The President will appoint five of the commissioners, and Congress will appoint eight.

Base Realignment and Closure (BRAC). The House-passed bill would have amended current law to require that for the upcoming 2005 BRAC round: (1) the Secretary of Defense create a list of core installations, consisting of at least 50 percent of the total number of U.S. military installations, that would be excluded from the BRAC process; (2) DoD assume the force structure under the 1991 Base Force Structure plan; and (3) no overseas installations be used for the permanent basing of the Armed Forces. As modified in conference, H.R. 1588 only requires DoD to assess the probable threats to national security and determine the surge requirements necessary to meet those threats, and use that determination in the BRAC process.

Expansion of Medical Care to Reservists. Under current law, reservists who are activated for active duty are covered immediately for health care, and their dependents are covered under DoD's TRICARE program if the reservists' orders are for 30 days or more. Transitional health benefits are provided to reservists and their dependents for up to 120 days after deactivation, depending on the number of years of active duty service completed. The Senate-passed bill greatly expanded TRICARE benefits (estimated to cost \$5.1 billion per year) for reservists and their dependents, including reservists not on active duty. As modified in conference, the enrolled bill drops the expensive Senate-passed TRICARE benefits, and temporarily authorizes the same new benefits found in P.L. 108-106, the FY 2004 Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan. However, H.R. 1588 extends the sunset date on these benefits to December 31, 2004 (the first quarter of fiscal year 2005). Thus, in addition to FY 2004 spending of \$400 million for these benefits, the bill could add as much as \$500 million in FY 2005 spending.

Aerial Refueling Tanker Aircraft. The enrolled bill authorizes the Secretary of the Air Force to lease up to 20 aerial refueling tanker aircraft under the multiyear aircraft lease pilot program in the FY 2002 Department of Defense Appropriations Act (P.L. 107-107). Beginning in FY 2004, the Secretary may enter into a multiyear contract to purchase up to 80 tanker aircraft within a period of up to 10 years. DoD is considering how to implement this provision. Delivery of the first six aircraft will occur in FY 2006, which is consistent with the original lease proposal. The enrolled bill restricts DoD from retiring more than 12 KC-135E aerial refueling aircraft in FY 2004.

Readiness and Range Preservation. H.R. 1588 includes two readiness and range preservation provisions requested by the Administration to remove barriers to realistic training opportunities at military facilities. First, the enrolled bill amends the Endangered Species Act to require the Department of the Interior not to designate as "critical habitat" DoD lands that are subject to an integrated natural resources management plan, if Interior makes a written determination that the plan already benefits the species for which the critical habitat designation is proposed. Second, the enrolled bill amends the Marine Mammal Protection Act (MMPA) principally by: (1) modifying the definition of "harassment", as applied to military readiness and Federal scientific research activities; (2) deleting certain geographic requirements related to the

MMPA "incidental take" permit process; and (3) providing certain limited time exemptions from MMPA requirements for national security reasons. (MMPA amendments will be particularly valuable to the Navy in its effort to use the low frequency active sonar to detect foreign quiet submarines.)

#### Agency Views

In its views letter, DoD recommends approval of H.R. 1588, noting that the "Secretary of Defense identified several provisions in the House- and Senate-passed bills that, if retained, would merit a recommendation that the President veto the bill. Congress has resolved these matters to the Department's satisfaction."

DOE recommends approval of H.R. 1588, noting the Department "appreciate[s] Congress's favorable consideration of the Administration's needs and priorities with respect to DOE activities."

Agency concerns with secondary provisions of H.R. 1588 are addressed in Attachment A.

#### Conclusion and Recommendations

We join DoD, DOE, and others in recommending approval of H.R. 1588, which passed the House by 362-40 and the Senate by 95-3.

We have attached for your consideration a signing statement that addresses constitutional concerns identified by Justice and others. The statement has been coordinated with the concerned agencies, NSC, Counsel to the Vice President, and the Office of White House Counsel.

Joshua B. Bolten  
Director

Enclosures

LRD: Maxwell/dmw 11/21/03

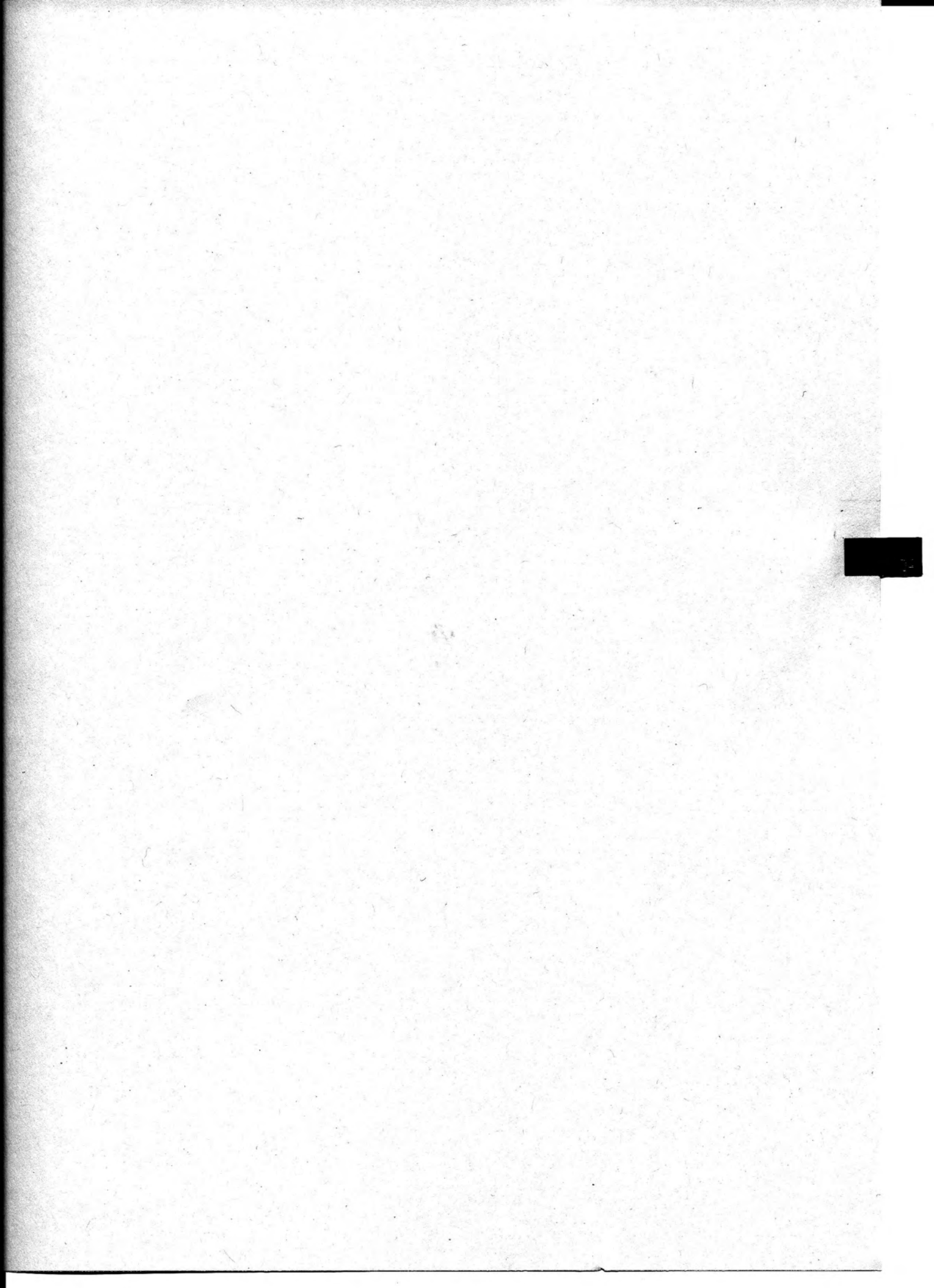
NS: Cleveland,

NSD: Peroff

ESD: Robinson

PPB: Waites/Jansen

OFPP: Blum





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

THE DIRECTOR

January 23, 2004

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2673 – Consolidated Appropriations Act, FY 2004

Sponsors: Representative Young (R), Florida  
Senator Stevens (R), Alaska

Last Day for Action

February 3, 2004 – Tuesday; however, your signature is recommended as soon as possible. Funding for the agencies and accounts covered by the enrolled bill is currently provided under Public Law 108-135, the Fourth Continuing Resolution, which will expire at midnight on Saturday, January 31, 2004.

Purpose

Provides FY 2004 appropriations for seven of the 13 regular appropriations bills. FY 2004 appropriations are included for: the Departments of Agriculture, Commerce, Education, Health and Human Services, Housing and Urban Development, Justice, Labor, State, Transportation, Treasury, and Veterans Affairs; the District of Columbia; International Assistance Programs; the Environmental Protection Agency; the Executive Office of the President; the National Aeronautics and Space Administration; the Corporation for National and Community Service; and many other smaller agencies.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Other affected departments and agencies	Approval (assumed)

Summary

H.R. 2673 provides \$330.3 billion in discretionary budget authority. This is consistent with the Administration's agreement with the Congress that the overall total for the appropriations bills remains within the aggregate funding level of \$786 billion. To reduce the cost of the bill, overall funding was reduced by a Government-wide across-the-board reduction of 0.59 percent to all non-defense programs and a \$1.8 billion reduction in unobligated funds provided in P.L. 107-38, the FY 2001 Emergency Supplemental Appropriations Act; P.L. 107-117, the FY 2002 Defense Appropriations Act; and, in other appropriations acts for the Department of Defense. Amounts referenced below for individual programs do not include the application of the 0.59 percent across-the-board reduction.

The conference report on H.R. 2673 passed the House of Representatives on December 8, 2003, by a vote of 242 to 176, and passed the Senate on January 22, 2004, by a vote of 65 to 28. The bill funds many of your key initiatives, which are discussed in more detail below:

- DC School Choice/School Vouchers - the bill authorizes the DC School Choice Incentive Act of 2003 and provides \$14 million for vouchers authorized under the Act and \$26 million for DC public and charter schools.
- Global AIDS Funding - provides \$2.4 billion in total funding for Global AIDS, tuberculosis and malaria, \$400 million more than your request.
- Millennium Challenge Account - authorizes your initiative and provides \$1 billion for the program, \$300 million less than your request.
- Education - Title I and Special Education - provides \$12.4 billion for Title I Grants and \$10.1 billion for IDEA State Grants, \$.7 billion and \$1.3 billion over 2003 appropriations, respectively.
- Drug Treatment Initiative - provides \$100 million for the new "Access to Recovery" drug treatment initiative to establish State voucher programs to expand options for individuals seeking treatment for substance abuse.
- Mentoring Programs - provides \$50 million for Mentoring Children of Prisoners, equal to your request; and \$50 million for Mentoring Middle School Students, \$50 million below your request but \$34 million above the FY 2003 enacted level.
- USA Freedom Corps Initiatives - fully finances your request for AmeriCorps grants and education awards in National Service Trust. The bill supports 75,000 members and drops the 50,000 AmeriCorps member ceiling included in FY 2003 language.

In negotiations with the Congress, the Administration fought successfully to exclude several provisions from the final version of the bill that would have resulted in a recommendation by your senior advisors to veto the bill:

- Labor Department/Overtime Regulations - a provision was included by the Senate that could have prohibited the Labor Department from proceeding with the proposed rulemaking to modernize white collar exemption regulations under the Fair Labor Standards Act.
- Federal Communications Commission (FCC)/Media Ownership - both the House and Senate included a provision that would have blocked the FCC's efforts to raise the national

TV ownership cap from 35% to 45%. The final version of the bill established 39% as the new and permanent cap.

- Competitive Sourcing – Congress adopted several provisions weakening your initiative on opening non-governmental functions to private competition, but negotiations successfully prevented any fundamental undermining of the initiative.
- Mexico City Policy - the Senate included language that would have overturned current international family planning policy, which was struck from the final version of the bill.
- Cuba - both the House and Senate included provisions that would have weakened current sanctions against Cuba, which were struck from the final version of the bill.
- Justice Department/Delayed Notice Search – the House included language that would have limited the Justice Department's ability to execute court-approved delayed notice of a search warrant, an important tool in the war on terrorism.

## AGRICULTURE APPROPRIATIONS

The enrolled bill provides \$17.2 billion in discretionary budget authority, before the application of the 0.59 percent across-the-board rescission, approximately \$1 billion more than FY 2003 enacted, and \$0.3 billion more than your FY 2004 request.

### Department of Agriculture

Country of Origin Labeling. The enrolled bill includes a provision supported by the Administration that would delay for two years the implementation of the mandatory country of origin labeling requirement.

Conservation Security Program. The bill lifts the multi-year spending cap on the Conservation Security Program, a new mandatory program authorized in the 2002 farm bill, and instead places a one-year cap of \$41 million for FY 2004. CBO has estimated that this will increase the cost of the program by \$3.1 billion over the next ten years. Our estimate is that an unconstrained program could cost significantly more than the CBO estimate. In anticipation of Congress removing the spending cap, your Administration will implement CSP so that it has stringent eligibility requirements that will achieve the most environmental benefits at reasonable costs.

Rural Development. The bill provides almost \$15 billion, \$3.2 billion above your FY 2004 budget, in loans, loan guarantees, and grants for rural development programs. Of this increase, \$3 billion is for rural electric loans. This funding will provide assistance to rural America to house low- to moderate-income residents and to provide economic and community development for these areas.

Research. The bill provides \$2.46 billion, a \$231 million increase over your budget, for USDA's research, education and extension programs. Of this amount, over \$300 million is included to fund several hundred unrequested earmarked projects. The National Research Initiative competitive grants program is funded at \$164 million, a reduction of \$36 million from the budget.

Food Safety. The bill provides \$775 million for the Food Safety and Inspection Service (FSIS), \$22 million below the FY 2004 request and \$20 million above the FY 2003 enacted level. This funding will allow FSIS to provide employees with a pay raise and meet changes in state inspection programs. However, this funding does not adequately cover costs related to industry growth, nor does it provide funds necessary to increase employee and consumer education, establish a risk assessment baseline, or expand FSIS laboratory capability.

#### Department of Health and Human Services

Food and Drug Administration. The enrolled bill provides \$1.4 billion for the Food and Drug Administration, including \$21 million to improve the security of the food supply from intentional contamination, and \$8 million to continue the Administration's efforts to increase the availability of generic drugs.

### COMMERCE/JUSTICE/STATE APPROPRIATIONS

The enrolled bill provides \$37.6 billion in discretionary budget authority, before the application of the 0.59 percent across-the-board rescission and an additional rescission of .465 percent that was applied to programs under the Commerce/Justice/State Appropriations title of the enrolled bill, \$0.2 billion more than FY 2003 enacted, and \$0.1 billion more than your FY 2004 request.

#### Commerce Department

The enrolled bill provides a total of \$5.9 billion for the Department of Commerce, \$600 million above your request. The bill includes funding for key programs, such as the Census Bureau, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office. However, the bill did not adopt your proposal to rescind funding for the steel loan guarantee program (instead the bill extends the program's authority), or to terminate the Advanced Technology Program.

The bill also adds over \$400 million in unrequested projects for NOAA. The bill rescinds \$140 million from Commerce's unobligated balances from prior years, including \$40 million from the unrequested tourism promotion funds. The bill establishes an Assistant Secretary for Manufacturing and Services within Commerce's International Trade Administration (consistent with your request in the 2005 Budget).

## Justice Department

The enrolled bill provides \$19.9 billion in discretionary budget authority for the Department of Justice, \$1.1 billion more than your request. Funding for major programs includes:

Federal Bureau of Investigation (FBI). The bill provides \$4.6 billion for the FBI, an increase of \$443 million (11 percent) over FY 2003. This funding will support additional agents and analysts to enhance counterterrorism and counterintelligence efforts, and to continue fighting violent crime, cyber crime, and corporate fraud.

Drug Enforcement. The enrolled bill provides \$2.2 billion for drug enforcement activities, including \$1.6 billion for the Drug Enforcement Administration and \$556 million for the Interagency Crime and Drug Enforcement account. As requested, the bill provides funds for the participation of Departments of the Treasury and Homeland Security in the task forces.

Project Safe Neighborhoods. The enrolled bill funds the Administration's Project Safe Neighborhoods initiative at \$250 million, \$84 million below the 2004 Request. Among the programs receiving less than the requested amount are Project Sentry, which assists communities with juvenile prosecutions, the Youth Crime Gun Interdiction Initiative, and the National Criminal History Improvement Program, which helps states improve criminal history records that supply data for the FBI's background check system.

State and Local Assistance. The enrolled bill provides \$3.1 billion in assistance for State/local law enforcement assistance programs. Of this amount, \$1.1 billion is for programs the Administration proposed streamlining and consolidating into a new, more flexible \$600 million Justice Assistance Grant Program. Also, the bill provides funding for programs recommended for termination: \$300 million for the State Criminal Alien Assistance Program and \$60 million for the Juvenile Accountability Incentive Block Grant. Further, the bill limits funding for a number of key Administration priorities, including the DNA Initiative (reduced \$77 million below your request), Project Childsafe (reduced \$21 below your request), Drug Courts (reduced \$30 million below your request), and USA Freedom Corps (reduced \$12 million below your request). No funding was provided for one priority, the Residential Substance Abuse and Treatment program (\$76 million requested) due to the availability of unobligated balances to support this program.

Prisons. The enrolled bill includes \$4.9 billion for the Federal Bureau of Prisons, which is \$182 million above your request. Funding for prisons includes \$270 million to activate 9 new federal prisons (10,680 beds) and provide for an additional 500 contract beds in FY 2004 which will help keep system-wide inmate crowding at manageable levels.

Federal Prison Industries. The bill has includes a provision that eliminates the mandatory use of Federal Prisoner Industries, Inc. (FPI) and requires agencies to perform market research to determine whether products offered from FPI are comparable to products available from the private sector.

## State Department and Broadcasting Board of Governors

The enrolled bill provides \$8.1 billion in discretionary budget authority for the State Department and Broadcasting Board of Governors. This is \$0.3 billion more than FY 2003 enacted excluding supplementals, and \$0.4 billion below your FY 2004 request excluding supplementals. Major program funding includes:

- \$ \$4.1 billion for the operating expenses of the Department of State, \$57 million below your request. This funding level will allow the Department to pursue its Diplomatic Readiness Initiative to hire additional personnel to meet the most critical hiring needs to meet U.S. foreign policy objectives, respond to crises, and address training requirements.
- \$ \$1.5 billion to meet assessed contributions to the U.N., U.N. peacekeeping missions, and other international organizations. While the enrolled bill fully funds the request for the U.N. and other international organizations, it reduces the amount provided for Contributions to International Peacekeeping Activities by \$100 million which will reduce our ability to meet emergent U.N. peacekeeping requirements in FY 2004.
- \$557 million for international broadcasting activities, slightly below the request. International broadcasting funding supports non-military international broadcast services including the Voice of America, Radio Sawa, Martí, Radio, Radio Free Asia, and the Middle East Television Network.

The bill also provides \$320 million for educational and cultural exchange activities, a reduction of \$25 million from the request.

Embassy Security and Construction. The enrolled bill fully funds your request for worldwide security upgrades and embassy security construction which totals \$1.5 billion. These funds support enhanced worldwide protective services, security upgrades for existing facilities, and construction of new, secure embassies abroad.

Middle East Television Network. The enrolled bill includes \$30 million to support first-year operations of the Middle East Television Network, an important public diplomacy initiative that will provide accurate, reliable and objective news and information to the region.

### Other Agencies

Small Business Administration. The enrolled bill provides \$764 million in discretionary budget authority, \$39 million less than FY 2003 enacted, and \$34 million less than your FY 2004 request. The funding provided includes \$46 million in unrequested earmarks. SBA's credit programs receive funding adequate to attain the requested volume levels.

Securities and Exchange Commission. The Securities and Exchange Commission is funded at \$812 million, \$692 million in new budget authority and \$120 million in prior year unobligated balances. This level is \$96 million or 13 percent above the FY 2003 enacted level and \$30 million or 4% below your FY 2004 request.

## **DISTRICT OF COLUMBIA APPROPRIATIONS**

The enrolled bill provides \$545 million in discretionary budget authority, before the application of the 0.59 percent across-the-board rescission, \$36 million more than FY 2003 enacted, and \$124 million more than your FY 2004 request. The bill funds the District of Columbia Courts at \$3 million above your request of \$196 million. The remainder of the funding difference is a large number of smaller projects targeted toward the District of Columbia.

### Administration Priorities

DC School Choice/School Vouchers. In response to your proposed DC choice initiative, the bill authorizes the DC School Choice Incentive Act of 2003 to help increase the capacity of the District to provide parents, particularly low-income parents, with more options to obtain a quality education for their children who are trapped in low-performing schools. The bill provides \$14 million for vouchers authorized under the DC School Choice Incentive Act and \$26 million for DC public and charter schools.

## **FOREIGN OPERATIONS APPROPRIATIONS**

The enrolled bill provides \$17.5 billion in discretionary budget authority, without the 0.59 percent across-the-board rescission, approximately \$1.2 billion more than FY 2003 enacted, and \$1.2 billion less than your FY 2004 request.

### Administration Priorities

Global AIDS. The bill includes a total of \$2.4 billion in support of the Emergency Plan for AIDS Relief, \$1,649 million of which is provided under the Foreign Operations portion of the bill. This funding will support the activities of the Global AIDS Coordinator at the State Department, and existing bilateral programs at the US Agency for International Development.

Millennium Challenge Account. The bill also includes the authorization of and \$1 billion for the Millennium Challenge Corporation.

Funding for other major international assistance programs includes:

- \$90 million for the Middle East Partnership Initiative (MEPI), \$55 million less than your request. The FY 2003 supplemental contained \$90 million for MEPI;
- \$731 million for the Andean Counterdrug Initiative, the same as your request;
- \$4.971 billion in economic and security assistance for Israel, Egypt, and Jordan, the same as your request;
- \$310 million for the Peace Corps, \$49 million less than your request, but \$13 million more than the FY 2003 enacted level of \$297 million. This funding level will hinder efforts to reach your goal to double the number of volunteers to 14,000 by FY 2007.

### LABOR/HHS/EDUCATION APPROPRIATIONS

The enrolled bill provides \$139.8 billion in discretionary budget authority, without the 0.59 percent across-the-board rescission. The total provided is \$5.4 billion more than the FY 2003 enacted level and \$4.3 billion more than your request. The bill also includes a \$50 million reduction to the administrative expense funds of the Departments of Education, Health and Human Services, and Labor. All further references to the amounts provided in the bill will be before the 0.59 percent across-the-board reduction and \$50 million reduction.

#### Administration Priorities

HIV/AIDS Initiative. The enrolled bill provides a total of \$804 million in the Labor/HHS/Education division for global HIV/AIDS prevention activities, including a \$110 million increase for the Centers for Disease Control and Prevention to prevent the transmission of HIV/AIDS from mothers to infants – an important component of your Emergency Plan for AIDS Relief.

Drug Treatment Initiative. The enrolled bill provides half of your \$200 million request for the Access-to-Recovery treatment voucher program in the Substance Abuse and Mental Health Services Administration.

Compassion Programs. The enrolled bill fully funds the Mentoring Children of Prisoners initiative at \$50 million. The enrolled bill also provides \$48 million, \$52 million below your request, for the Compassion Capital Fund which creates public/private partnerships that support charitable organizations in expanding or emulating model social service programs. No funding was provided for Administration initiatives related to Responsible Fatherhood and Maternity Group Homes.

USA Freedom Corps Initiatives. The enrolled bill provides \$50 million, half of your request, for the Mentoring of Middle School Students initiative. Two other Department of Education programs

supporting your civics initiative were funded at or above your requested level: Civic Education was provided \$29 million, equal to your request and the Teaching Traditional American History program was funded at \$120 million, \$20 million above your request.

Corporation for National and Community Service (CNCS). The enrolled bill provides \$356 million for CNCS programs in the Labor/HHS/Education division of the bill, \$8 million below the requested level. The National Senior Service Corps programs received \$216 million, \$3 million above your request. The Volunteers in Homeland Security program received \$10 million, half of the requested amount, and the Parent Drug Corps was not funded.

#### Department of Labor

H.R. 2673 provides \$11.7 billion in discretionary budget authority for the Department of Labor (DOL), \$0.2 billion above the request and \$0.1 billion below the FY 2003 level.

Many of the Administration's priorities for DOL are supported in the areas of worker training, pension protection, and worker safety. The bill also provides, however, an unrequested \$98 million for the Bureau of International Labor Affairs. In addition, the bill provides only \$5 million of the \$24 million requested for DOL's central management fund for your Management Agenda reforms and \$14 million of the \$20 million requested for a new core accounting system.

#### Department of Health and Human Services

The bill provides \$63.3 billion in discretionary budget authority for the Department of Health and Human Services, \$1.3 billion above your request and \$2.2 billion above the FY 2003 enacted level. The enrolled bill meets or exceeds funding for several of your key health initiatives, including \$1.6 billion for Consolidated Health Centers and the National Institutes of Health.

The bill provides \$3.4 billion for efforts to combat bioterrorism, approximately the amount you requested. This includes \$1.5 billion to augment State, local and hospital preparedness efforts and \$1.6 billion for biodefense research and development at the National Institutes of Health.

The bill also provides \$6.8 billion for Head Start, which is equal to your request, and \$1.9 billion for Low Income Heating Assistance Program, including \$100 million in the emergency reserve, which is \$100 million below your request in total.

#### Department of Education

The bill provides \$56.0 billion in discretionary budget authority for the Department of Education, a \$2.9 billion increase over the FY 2003 enacted level and \$2.8 billion more than your request. Funding for major education programs includes:

- \$ \$12.4 billion for Title I Grants to Local Educational Agencies, just slightly above your request and \$0.7 billion more than the FY 2003 enacted level.
- \$ \$10.1 billion for IDEA Special Education Grants to States, \$0.6 billion above your request and \$1.3 billion above the FY 2003 enacted level.
- \$ \$12.1 billion for Pell Grants, \$0.6 billion below your request but \$0.7 billion above the FY 2003 level. The maximum award is \$4,050, the same as the FY 2003 level and \$50 higher than your request. Under the Department of Education's latest estimates, the funding provided is \$1.0 billion below what is necessary to cover program costs, and will increase the program's funding shortfall to \$3.7 billion by the end of FY 2004.

While the enrolled bill provides the requested \$200 million for charter schools, it does not provide funding at the requested level for several Administration priorities such as Reading First/Early Reading First (\$1.1 billion, \$25 million below the request), and educational research (\$167 million, \$18 million below the request.) In addition, the bill continues to fund numerous duplicative or ineffective education programs that were proposed for reduction or termination.

Due to the across-the-board rescission, the amount for State Assessments falls just short of the \$390 million trigger level, below which States are not required to implement NCLB tests. It is clear that Congress intended to meet the trigger amount but last minute changes in the across-the-board cut resulted in unforeseen consequences. Education is transferring money into the program to ensure the full \$390 million is available, and we are prepared to work with Congress on clarifying legislation should that be necessary to avoid a legal challenge.

#### Other Agencies

Social Security Administration. The enrolled bill provides \$8.4 billion for administration of Social Security programs, \$0.2 billion below your request, \$0.4 billion above the FY 2003 enacted level. These resources will enable the Social Security Administration to operate more efficiently while also maintaining public service levels.

NLRB, IMLS, CPB. The bill also provides funding above the request for the National Labor Relations Board (\$244 million, \$1 million above the request), the Institute for Museum and Library Services (\$264 million, \$22 million above the request), and an additional \$60 million in FY 2004 funding for the Corporation for Public Broadcasting.

#### TRANSPORTATION/TREASURY APPROPRIATIONS

The enrolled bill provides \$28.5 billion in discretionary budget authority and \$50.5 billion in obligation limitations, without the 0.59 percent across-the-board rescission. The total discretionary

budget authority provided is \$0.5 billion more than the FY 2003 enacted level and \$1.0 billion more than your request. The total obligation limitations provided is \$2.4 billion more than the FY 2003 enacted level and \$4.3 billion more than your request.

#### Administration Priorities

E-Government (E-Gov) Fund. The enrolled bill provides \$3 million for E-Government, \$2 million below the FY 2003 enacted level, and \$42 million below your request.

Counterdrug Initiatives. The enrolled bill addresses three initiatives within the Office of National Drug Control Policy (ONDCP). The enrolled bill fully funds your request for the Drug-Free Communities program at \$70 million, and the Counterdrug Intelligence initiative at \$10 million. The enrolled bill also provides \$42 million for New Counterdrug Research and Development programs, \$2 million more than your request.

#### Department of Transportation (DOT)

Highway and Transit Funding. The bill provides \$33.8 billion for the Federal-aid highway program, which is \$4.5 billion more than your request of \$29.3 billion. The bill also provides \$15 million as requested to fund the design and construction of the Pennsylvania Avenue project. This project should be completed by January 2005. Transit funding is consistent with your request of \$7.2 billion.

Aviation. The bill provides \$14.0 billion in budgetary resources for the Federal Aviation Administration (FAA), \$470 million above FY 2003 and \$46 million below your request. Many of the Administration's priorities for FAA were supported including funding for Grants-In-Aid for Airports (\$3.4 billion) and information technology investments to modernize the airspace (\$2.9 billion). In addition, the bill provides \$7.5 billion for FAA's Operations account, \$59 million less than the request and \$119 million for the Research, Engineering, and Development program, \$19 million more than the request.

Amtrak. The bill provides \$1.2 billion in Federal assistance for Amtrak, \$325 million above your request. It will support continued operations and a substantial capital improvement program. The bill does not contain the substantial reforms proposed by your Administration, though it does continue provisions from the FY 2003 bill that imposed stricter financial reporting requirements, and includes a new pilot program for competitive bidding of some services. The bill also defers repayment of a \$100 million loan owed by Amtrak to DOT.

#### Department of the Treasury

The Congress did not provide the requested level of funding to the Internal Revenue Service (IRS), and proposed reductions in Tax Law Enforcement and Information Systems investments, which

will make it more difficult for IRS to improve the fair enforcement of the tax code. The Congress also did not adopt your proposed consolidation of the two Treasury offices of Inspector General.

#### Civilian Pay and the Human Capital Performance Fund

The bill includes a 4.1 percent pay increase for civilian employees. Your FY 2004 Budget assumed a 2 percent pay raise, therefore agencies will be need to absorb approximately \$2.1 billion.

In addition, Section 640 of the enrolled bill applies a 4.1 percent adjustment in rates of basic pay for civilian employees under both the General Schedule and the Prevailing Rate System (blue collar workers), and would substitute General Schedule locality pay increases for those generated by the blue-collar wage surveys. These provisions could result in paying blue-collar employees at rates higher than local labor markets and would create a host of technical and equity problems. This section also specifies 4.1 percent increase for Department of Homeland Security and Department of Defense civilian employees.

The enrolled bill provides only \$1 million of the \$500 million requested for the Human Capital Performance Fund. The Fund, which was authorized in the recently enacted National Defense Authorization, would allow agency managers to provide additional pay raises to high performing employees.

#### Executive Office of the President (EXOP)

The enrolled bill funds your request for most of the EXOP offices, projects, and programs. However, the bill does not provide for either the proposed consolidated appropriation for EXOP, or the ten percent transfer authority. The bill also funds the Homeland Security Council within the White House Office, as you requested.

#### Election Assistance Commission (EAC)

The enrolled bill includes \$1.5 billion for EAC, \$1 billion above your request. To date, approximately \$3 billion over two years has been appropriated for election reform.

#### Office of National Drug Control Policy

The bill provides \$497 million for drug control programs, including \$70 million for grants to community antidrug coalitions and \$7 million for education and testing related to the use of performance enhancing drugs in sports. Compared with your Budget proposal, the Congress increased spending for most programs except for the Youth Media Campaign, regarding which the Congress cut \$25 million from the \$170 million request.

### Office of Personnel Management (OPM)

The Congress fully funds your request of \$271 million for administrative expenses for OPM, and provides funding for critical E-Gov initiatives being implemented by OPM.

The enrolled bill continues current law provisions regarding the use of Federal funds for abortions under the Federal Employees Health Benefits Program (FEHBP).

The enrolled bill also includes several new general provisions, many of which are objectionable, including section 522 that attempts to ensure that agencies restore federal employees returning from active military duty to their former positions by prohibiting the use of appropriated funds for the salaries of others filling those positions. This provision is unnecessary since returning service-members are already guaranteed reemployment in the job that they would have attained had they not been absent for military service (the long-standing "escalator" principle).

In addition, section 628 interferes with a significant E-Gov initiative, Recruitment One-Stop, by prohibiting agencies from using appropriated funds to independently contract with private companies to provide online employment applications and processing services. This language would prevent the migration and termination of the numerous and redundant agency-specific systems, and significantly undermine the value and benefits of this E-Gov project.

Section 646 bars OPM from implementing or enforcing proposed regulations limiting the ability of agencies to detail Executive Branch employees to congressional offices. OPM proposed these regulations to address the potential for a conflict of interest to exist between an employee's Executive Branch agency and the congressional office to which the employee would be detailed.

### General Services Administration (GSA)

The bill provides \$233 million in net discretionary budget authority for the GSA, \$132 million above your request. This funding level includes full or partial funding for ten courthouse construction projects, whereas your budget had requested none. While your request had included \$45 million for the Administration's e-gov fund, the bill provides just \$3 million.

### Federal Prison Industries

The enrolled bill includes a provision that requires civilian agencies to perform market research before purchasing a supply or service from Federal Prison Industries (FPI). The research would form the basis for the required assessment that the FPI product or service provides the best value to the agency. This provision parallels requirements similar to those imposed on the Department of Defense.

### Continued Dumping and Subsidy Offset Act of 2000

The enrolled bill does not include your proposed repeal of the Continued Dumping and Subsidy Offset Act of 2000 (the so-called "Byrd Amendment") that provides payments to private entities from antidumping and countervailing duty collections. The "Byrd Amendment" has been found by the World Trade Organization to be an impermissible trade remedy and provides an unwarranted benefit to domestic producers by giving them access to antidumping and countervailing duties that would otherwise go to general revenues. This repeal could provide savings to the taxpayer of over \$300 million per year.

### Competitive Sourcing

The enrolled bill includes provisions that generally accommodate the Administration's efforts to reduce costs and improve performance through the use of public-private competition. The bill includes language that will enable agencies to continue to pursue the best value for the taxpayer.

### VA/HUD APPROPRIATIONS

The enrolled bill provides \$90.9 billion in discretionary budget authority, without the 0.59 percent across-the-board rescission, \$4.4 billion more than FY 2003 enacted, and \$1.8 billion more than your FY 2004 request.

#### Administration Priorities

Corporation for National and Community Service. The enrolled bill provides \$584 million for CNC's programs in the VA/HUD division of the bill, \$13 million below the requested level. The AmeriCorps program (including the National Service Trust) received \$444 million, \$4 million above your request. However, the bill does not fully finance your request for America's Promise or Teach for America.

#### Veterans Affairs

The bill provides \$29.3 billion in discretionary budget authority for the Department of Veterans Affairs, \$1.3 billion above your request and \$2.8 billion above the FY 2003 enacted level. Almost all of the funding over your request was added to VA medical care to compensate for three key Administration proposals that were not included in the enrolled bill. Two of these proposals would have allowed VA to refocus on its core mission of treating veterans with military disabilities, low incomes, and special needs (like spinal cord injuries) by charging other veterans an annual enrollment fee of \$250 and higher drug copays (from \$7 to \$15). The other proposal would have allowed VA to conduct competitive sourcing studies on indirect activities such as laundry and food services.

The bill does not include the new budget account restructuring proposed by the Administration to provide transparency in VA spending and the ability to measure and compare performance from one year to the next and with other similar systems.

#### Housing and Urban Development

The enrolled bill provides \$30.9 billion for HUD's housing assistance and community development programs in FY 2004, \$856 million more than in the FY 2003 enacted level and \$353 million less than your request. The bill provides \$88 million for the American Dream Downpayment Presidential initiative to help families buy their first homes and \$27 million for the Self-Help Homeownership Opportunity program -- both programs support the Administration's commitment to add 5.5 million new minority homeowners by 2010.

The bill provides adequate funds to renew all expiring housing assistance contracts and to meet the operating and capital needs of public housing. Block grants for housing, community development, and Native American housing are funded at levels close to your request; however, \$336 million of Community Development Block Grant funding has been diverted from formula amounts to pay for 951 local projects requested by members of the House and Senate for their districts.

The bill also provides commitment authority for FHA mortgage insurance program and funds housing and services for the disabled, the elderly, and persons with AIDS. The bill provides \$150 million for the HOPE VI program to replace severely distressed public housing, for which the Administration requested no funding because the program achieved its original goal of demolishing 100,000 units of unviable housing. The bill also provides HUD with new authority to match the reported incomes of assisted families with income information from the National Directory of New Hires, which will help HUD reduce subsidy overpayments.

#### Environmental Protection Agency

The enrolled bill provides \$8.4 billion for the Environmental Protection Agency (EPA), a \$0.3 billion increase over FY 2003 and \$0.8 billion above your request.

The bill supports the Energy Star Program, a critical component of your climate change program. However, the bill provides only \$1.3 billion of the \$1.4 billion requested for Superfund, and only \$171 million of the \$211 million requested for brownfield cleanups, while including approximately \$497 million in unrequested funding for member-sponsored project grants.

The bill provides \$4.3 billion for core EPA programs, which is \$99 million above your request. The bill does not fund your \$8 million request for drinking water infrastructure improvements in San Juan, Puerto Rico, where inadequate infrastructure has created a significant health risk.

The bill also includes a provision that prohibits the collection of two currently authorized fees for existing pesticide activities at EPA. The provision also authorizes a new voluntary fee for enhanced pesticide registration, but the funds collected through this new fee can not be used to offset existing activities.

### MISCELLANEOUS PROVISIONS

Disaster Relief. The enrolled bill includes a \$225 million rescission of Disaster Relief funds for the Department of Homeland Security, provided in P.L. 108-106, the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, as an offset for additional funding for the Department of Agriculture in response to the recent wildfires in southern California and other activities.

Other Funding Items. The enrolled bill also includes additional funds for the Department of Defense, the Department of Energy (over \$72 million for projects, including a \$50 million earmark to develop an indoor rainforest and aquarium near Coralville, Iowa), the Army Corps of Engineers, and the Legislative Branch as well as a total of \$55 million in unrequested earmarks for numerous agencies and departments.

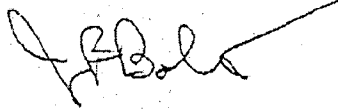
Other noteworthy language provisions of the enrolled bill:

- Records of Background Checks for Firearms Purchases. Beginning 180 days after enactment, the bill requires the destruction within 24 hours of certain records associated with criminal records checks prior to the purchase of firearms under the Brady Handgun Violence Prevention Act. Under current law, these records are kept for 90 days before they are destroyed.
- Human Organism Patents. The bill prohibits the use of funds made available by the bill to issue patents on "claims directed to or encompassing" a human organism.
- Pension Provisions. The bill prohibits through FY 2004 making final the current proposed rules on age discrimination in cash balance pension plans; and directs the Secretary of the Treasury to submit to Congress within 180 days of enactment a proposal for legislation to provide transition relief for certain older workers affected by their employers' conversions of traditional pension plans to cash balance plans.

Recommendation

H.R. 2673 provides adequate funding for your major initiatives while holding funding to a fiscally responsible spending limit. I join with the heads of the affected Departments and agencies in recommending that you sign the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bolten", with a long horizontal stroke extending to the right.

Joshua B. Bolten  
Director

## Statement by the President

Today, I have signed into law H.R. 2673, the "Consolidated Appropriations Act, 2004" (CAA). The CAA consolidates into a single appropriations Act several appropriations bills that the Congress normally passes each year as separate bills to fund the operations of the Federal Government.

Many provisions of the CAA are inconsistent with the constitutional authority of the President to conduct foreign affairs, command the Armed Forces, protect sensitive information, supervise the unitary executive branch, make appointments, and make recommendations to the Congress. Many other provisions unconstitutionally condition execution of the laws by the executive branch upon approval by congressional committees.

The executive branch shall construe as advisory the provisions of the Act that purport to: (1) direct or burden the Executives conduct of foreign relations, including sections 514, 531, 548, 557, 570, 571, 589, 610, and 618(b) of, and language relating to an agreement under the heading "Other Bilateral Economic Assistance, Economic Support Fund" in, the Foreign Operations Appropriations Act; and sections 404, 612, and 635 of the Commerce, Justice, State Appropriations Act and language in that Act relating to World Trade Organization negotiations and United Nations Security Council voting; (2) limit the Presidents authority as Commander in Chief, such as language under the heading "Andean Counterdrug Initiative" in the Foreign Operations Appropriations Act and section 610 of the Commerce, Justice, State Appropriations Act; (3) limit the Presidents authority to supervise the unitary executive branch, such as section 610(3) of the Commerce, Justice, State Appropriations Act, and sections 618 and 628 of the Transportation, Treasury Appropriations Act and the language in that Act relating to Office of Management and Budget (OMB) review of executive branch orders, activities, regulations, transcripts, and testimony; or (4) restrict the Presidents constitutional authority to make appointments, such as section 604(c)(3)(B) of the Foreign Operations Appropriations Act and subsections 112(a) and (d) of the Commerce, Justice, State Appropriations Act.

In addition, the executive branch shall construe provisions in the CAA that mandate submission of information to the Congress, other entities outside the executive branch, or the public, such as section 637(e)(2) of the Commerce, Justice, State Appropriations Act, in a manner consistent with the President's constitutional authority to withhold information that could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. Also, to the extent that provisions of the CAA, such as section 404 of the Transportation, Treasury Appropriations Act and section 721 of the Agriculture Appropriations Act, purport to require or regulate submission by executive branch officials of legislative recommendations to the Congress, the executive branch shall construe such provisions in a manner consistent with the President's constitutional authority to submit for congressional consideration such measures as the President judges necessary and expedient. In particular, the executive branch shall construe sections 121 and 223 of the Veterans Affairs, Housing and Urban Development Appropriations Act in a manner consistent with the President's authority under the Recommendations Clause to submit budget requests to the Congress in any form he determines appropriate.

The executive branch shall construe the phrase "developed by the Kimberley Process" in section 584 of the Foreign Operations Appropriations Act as requiring the enforcement only of those standards that are in existence as of enactment of the CAA, for the reasons I stated upon signing the Clean Diamond Trade Act on April 25, 2003.

The executive branch shall construe as calling solely for notification the provisions of the CAA that are inconsistent with the requirements of bicameral passage and presentment set forth by the Constitution, as construed by the Supreme Court of the United States in 1983 in *INS v. Chadha*. Such provisions include: sections 704, 718, 732, and 786 in the Agriculture Appropriations Act and language relating to Food and Drug Administration fund transfers in that Act; section 436(5) of the District of Columbia Appropriations Act; section 207 of the Labor, Health and Human Services Appropriations Act and language under the Pension Benefit Guaranty Corporation Fund heading in that Act; sections 201, 211, 212, 217, 403, 526, 533, 614, 623, and 643 in the Transportation, Treasury Appropriations Act and language in that Act under the

headings "Department of Transportation, Office of the Secretary, Salaries and Expenses," "Department of Transportation, Working Capital Fund," "Federal Transit Administration, Administrative Expenses," "Treasury Building Annex Repair and Restoration," "Internal Revenue Service, Business Systems Modernization," "Federal Drug Control Programs, High Intensity Drug Trafficking Areas Program," "General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue," and "Human Capital Performance Fund;" and section 111 of the Veterans Affairs, Housing and Urban Development Appropriations Act and language in that Act relating to additional amounts for Capital Asset Realignment for Enhanced Services Activities.

Section 409 of the Commerce, Justice, State Appropriations Act purports to compel the Secretary of State to furnish all Department of State cables, on any topic and of whatever classification, to any member of the House or Senate appropriations committees who requests them. The executive branch shall construe this provision consistent with the President's constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative process of the Executive, or the performance of the Executive's constitutional duties.

The executive branch shall construe section 646 of the Transportation, Treasury Appropriations Act, relating to assignment of executive branch employees to perform functions in the legislative branch, in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and as Commander in Chief, and recognizing that the President cannot be compelled to give up the authority of his office as a condition of receiving the funds necessary to carrying out the duties of his office.

Several provisions of the CAA relate to race, ethnicity, or gender. The executive branch shall construe such provisions in a manner consistent with the requirement to afford equal protection of the laws under the Due Process Clause of the Fifth Amendment to the Constitution.

Sections 153 and 154 of Division H of the CAA purport to establish interparliamentary groups of U.S. Senators to meet with members of the national legislatures of certain foreign countries for a discussion of common problems in the interest of relations between the United States and those countries. Consistent with the President's constitutional authority to conduct the Nation's foreign relations and as Commander in Chief, the executive branch shall construe sections 153 and 154 as authorizing neither representation of the United States nor disclosure of national security information protected by law or executive order.

The executive branch shall construe section 161 of Division H of the CAA as applicable only with respect to statutory functions assigned to the Director of OMB and not to the Director's role of assisting the President in the President's exercise of his constitutional powers of obtaining the opinions of the heads of departments, recommending for the consideration of the Congress such measures as the President judges necessary and expedient, and supervising the unitary executive branch. The executive branch shall not construe section 161 to affect the power of the President to modify or amend the executive order to which the provision refers.

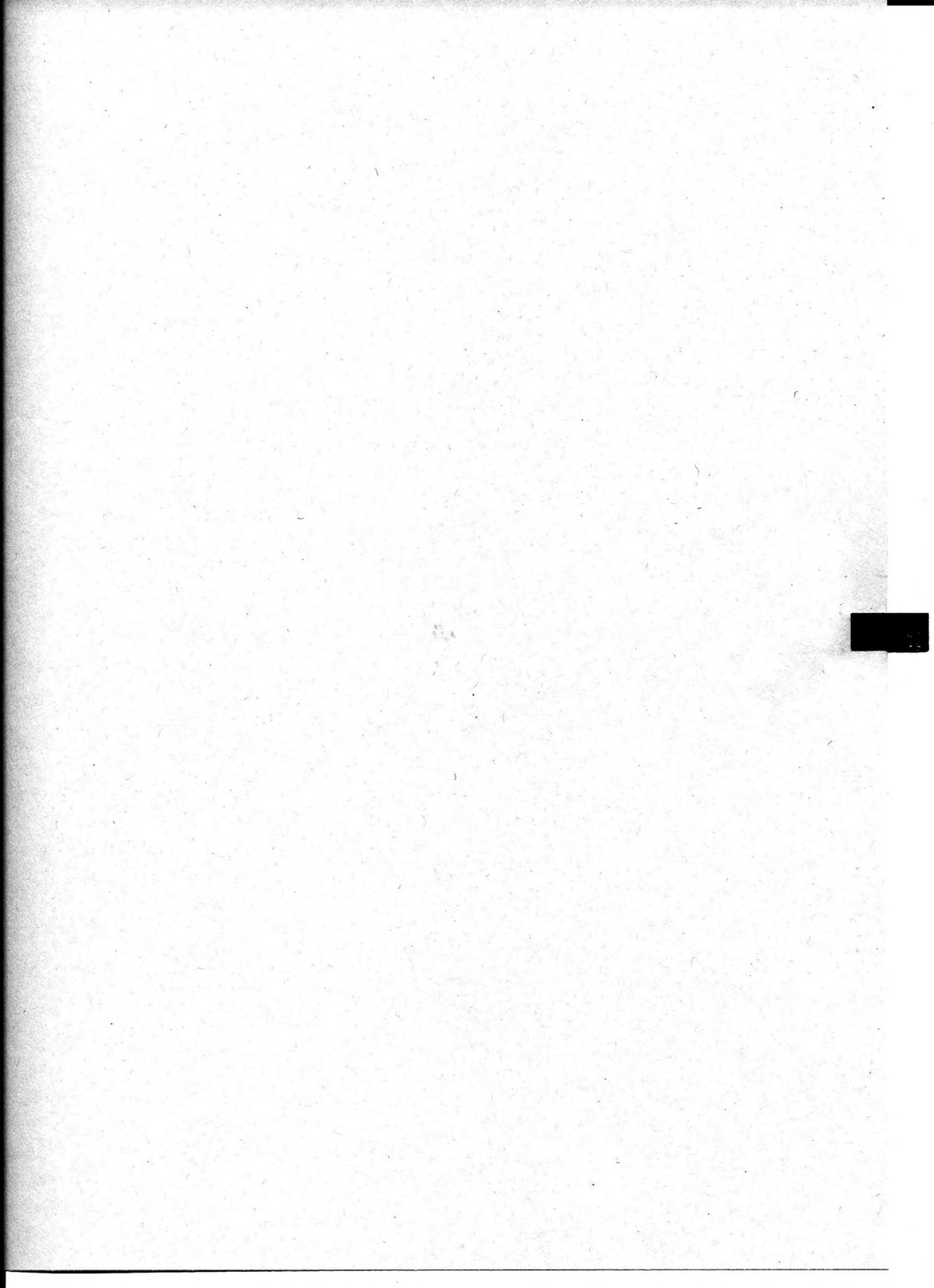
Several provisions in the CAA make specified changes in statements of managers of the House-Senate conference committees that accompanied various bills reported from conference that ultimately became laws. As with other committee materials, statements of managers accompanying a conference report do not have the force of law. Accordingly, although changes to these statements are directed by the terms of the statute, the statements themselves are not legally binding.

GEORGE W. BUSH

THE WHITE HOUSE,

January 23, 2004.

###



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THE WHITE HOUSE  
WASHINGTON

5/5/04

May 4, 2004

INFORMATION

COPY  
FROM ORM

MEMORANDUM FOR THE PRESIDENT

THROUGH: MARGARET SPELLINGS

FROM: ALAN GILBERT

SUBJECT: UPDATE ON DEPARTMENT OF VETERANS AFFAIRS "CARES" PROCESS

**Purpose**

To provide you an update on (a) the CARES (Capital Asset Realignment for Enhanced Services) process at the Department of Veterans Affairs (VA), and (b) a CARES-related announcement by Secretary Principi that is scheduled for Friday, May 7.

**Background**

Many of VA's medical hospitals are outdated, having been designed and built to provide medical care as it was practiced before World War II. In addition, the current size and location of many of these antiquated facilities do not match the needs of veterans, especially as aging veterans continue to migrate to southern and western States. More modern and better-located VA facilities would allow the VA to spend more of its resources on medical care, and less on costly maintenance of unneeded and unused facilities.

During the 2000 campaign, you called for greater accountability for the vast network of unneeded and unused VA hospitals. The CARES process is designed to modernize VA's health care facilities and make changes that will improve medical care for current and future veterans. While the previous Administration initiated the CARES process, your Administration has supported and accelerated it. In August 2003, Secretary Principi released to the public a comprehensive draft plan for realigning the VA health care system. He also formally submitted the plan to a special commission he created, to ensure that an independent review was performed. In February of this year, the commission delivered a report ("the CARES Report") to Secretary Principi, making recommendations that are largely based on his draft plan.

**The CARES Report**

The commission's report recommends new hospitals in Las Vegas, Nevada and Orlando, Florida; a replacement hospital in Denver, Colorado; an expansion of the existing hospital in Tampa, Florida; the potential for five new spinal cord injury centers; two new rehabilitation centers; and

more than 250 new community-based outpatient clinics. It also recommends a study to determine whether a replacement facility should be constructed in Louisville, Kentucky.

In addition, the report recommends closing inpatient care at four hospitals in Pennsylvania, two in Texas, and one each in Michigan, Indiana, Mississippi, Ohio, Iowa, West Virginia, Washington, and South Dakota. The report recommends that outpatient care continue at all these sites. Two other hospitals in New York would see partial relocation of some non-inpatient care services, and other hospitals in Massachusetts, New York, and Texas would be studied for possible consolidation with other facilities in the future.

### **The Secretary's Decision**

Secretary Principi has decided to accept the recommendations of the CARES report, and he has prepared a detailed implementation plan that is consistent with your budget request for 2005. Under his plan, the opening of new facilities will take several years, as sites are determined, construction and engineering proposals are contracted and agreed upon, and medical services are organized. For example, details on the development of the new hospitals in Orlando, Florida and Las Vegas, Nevada, as well as the specialty care clinics, will be released by the end of 2004.

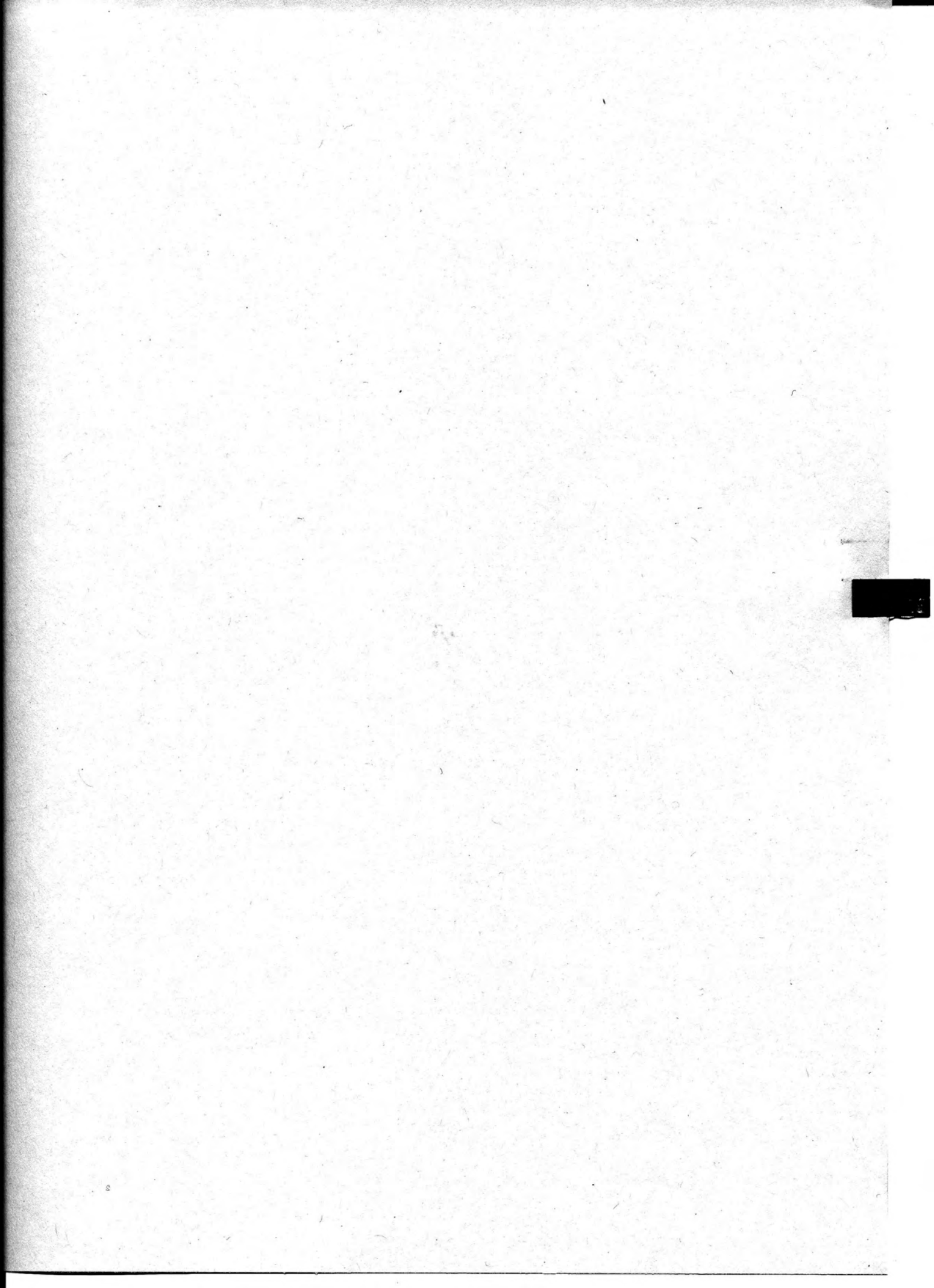
Under the Secretary's implementation plan, 159 new outpatient clinics will be completed within eight years, and each VA region will report this summer on the priority for constructing and opening these clinics within its network. The closing of hospitals and the relocation or transfer of inpatient care and other services from one facility to another will be slowly phased in over several years. No facility will close this year, and a VA analysis detailing the process for closing each facility is due to be released by February 2005.

The Secretary will ensure that proposed closures of inpatient care do not jeopardize access to care for veterans, and will especially focus on rural areas. In these areas, like South Dakota, Pennsylvania, Washington, and West Virginia, the VA will review each proposed closure under a new "Veterans Rural Access Policy" to ensure veterans have full access to quality care. A decision on the proposed closing of inpatient care at a facility each in Texas and Washington will also be deferred for the foreseeable future, pending receipt of additional information about the adequacy of accessible, cost-effective inpatient care in the community.

### **Anticipated Reaction to Decision**

The VA has indicated that veteran service organizations, apart from the American Legion, will welcome the news as a careful and necessary step towards modernizing patient care in VA facilities. Individual communities facing closures or service reductions will continue to criticize the process and work to prevent implementation of the recommendations. Congress will likely weigh in generally and on specific localities. For example, Senators from New York and Wyoming attempted to include language on several bills late last year that would have prevented the closing of any inpatient care at VA hospitals in their states. A provision that was included in a veterans bill you signed into law in December 2004 already requires at least 60 calendar days to elapse before the process to close any specific sites can begin.

Your advisors have worked closely with Secretary Principi to ensure a comprehensive rollout plan is pursued. The Secretary is currently scheduled to travel to Las Vegas, Nevada, on Friday, May 7 to announce his decision on CARES. Coordinated outreach by other VA health officials to the press and affected communities will also occur on May 7 and thereafter. The Secretary will visit Orlando, Florida, the site of another new facility, on Tuesday, May 11.



THE WHITE HOUSE

WASHINGTON

October 4, 2004

1004-04  
1004-04  
1004-04

INFORMATION

MEMORANDUM FOR THE PRESIDENT

THROUGH: MARGARET SPELLINGS

FROM: ALAN GILBERT

SUBJECT: Veterans and Military Issues

COPY  
FROM ORM

**Purpose**

To provide you information on several issues that have been in the media recently on veterans and members of the Armed Forces.

**Background**

In four years, you have increased veterans funding twice as much as the previous Administration did in eight years (\$22 billion over four years vs. \$10 billion over eight years). If your 2005 budget request for the Department of Veterans Affairs (VA) is approved, the VA's four budgets since 2001 will have increased health care spending by 41 percent. These resources have ensured timely access to quality health care and enabled the VA to reduce the disability claims backlog.

Since 2001, the VA has opened 194 new clinics nationwide. Through the CARES initiative, the VA is modernizing its health facilities and working to ensure that the majority of vets are within 30 miles of a VA facility.

**Discussion**

Below we have provided more detail on specific issues raised by the media and some Members of Congress regarding the Administration's record:

VA Mental Health Care

The media and some Members of Congress have claimed that the VA will not have the capacity to adequately provide mental health treatment in future years, citing the historical numbers of veterans who return from conflicts with mental health problems. A VA report issued last week outlined problems in providing mental health services to veterans and identified numerous deficiencies, overlaps, and gaps in mental health services. Among the 265 recommended actions, the report identified as priorities

expanding access to services at all VA clinics and hospitals, reaching out to returning veterans in the war on terror to provide a seamless transition between DoD and VA for those who need mental health care, and using telemedicine to improve access to mental health services in rural health areas. It also recommended that mental exams should be a part of all physical exams, that veterans and their families should be integrated into all aspects of treatment, and that special programs for substance abusers and homeless chronically ill patients should be created.

The VA is working to integrate these recommendations into its five-year strategic plan to better serve veterans with mental health care needs. This overall plan is part of the CARES initiative to bring the VA health system into the 21<sup>st</sup> Century.

In FY 2004, the VA provided mental health care services for over one million veterans. The VA is an international leader on Post Traumatic Stress Disorder (PTSD), and has learned from past conflicts that service members exposed to the stress of military operations may develop PTSD or other mental illnesses.

#### Veterans Disability Claims Backlog

Some Members of Congress have claimed that the VA is overburdened with a disability claims backlog. When you took office, there was a veterans' disability claims backlog, which peaked at 432,000. The VA receives approximately 60,000 new and reopened claims each month, and it considers a normal working inventory to be 250,000 claims.

Since 2001, the VA has added more than 1,300 workers to increase the volume of claims decisions it could process, and established a goal of processing a claim within 100 days. As a result of their actions, the volume of claims decisions per month have thus far increased from 40,000 to 68,000. In addition, the average length of time to process a veterans' compensation claim has dropped from approximately 230 days in 2001 to 160 days.

In the first three years of your Administration, these actions reduced the backlog by more than a third. The disability claims working inventory are approaching the VA goal of 250,000, and the VA expects to meet its goal of 100 days by the end of this year.

#### Health Care for Members of the National Guard and Reserves

Democrats have criticized your opposition to providing full TRICARE benefits to non-mobilized reservists and their families who lack adequate health care coverage. They have proposed legislation to open eligibility for these individuals, subsidize 72 percent of their costs of coverage.

You support making permanent health care benefits for Reservists and Guard and their families for up to 90 days before they report for active duty and for up to 180 days after

activation (last year you signed legislation that provides this benefit until December 31, 2004). You do not support additional expansion to non-mobilized reserve and guard, and OMB has estimated that such an expansion could cost as much as \$7.5 billion over five years.

#### Reemployment Rights for Veterans, National Guard, and Reserve

The Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted in 1994 to prevent employer discrimination against any person on the basis of that person's military service. USERRA guarantees reemployment rights to National Guard and reserve members following deployment. The Act applies to all employers, regardless of size.

#### Under USERRA:

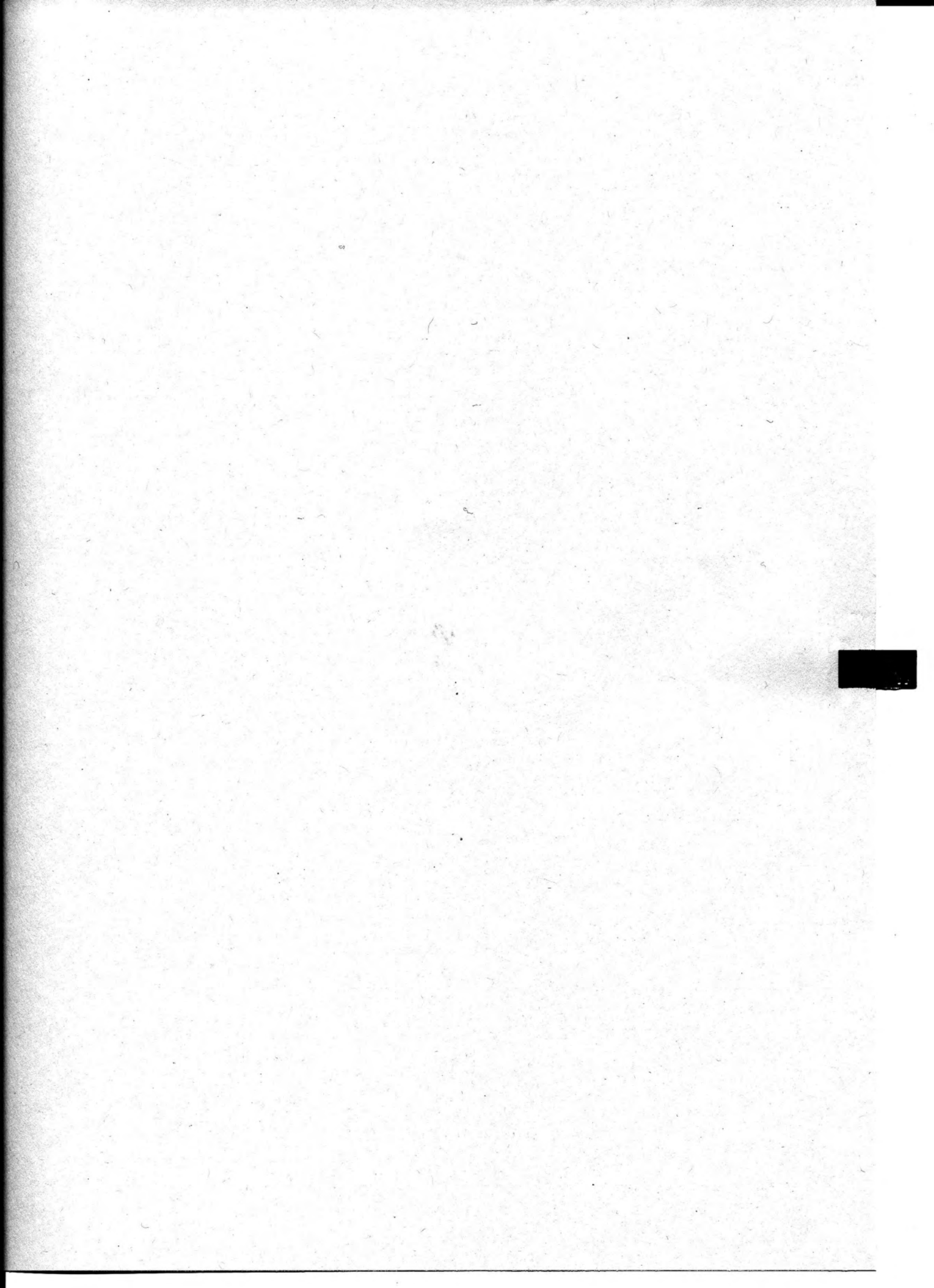
- A person may be absent from work for military duty of up to five years (more, in some cases) and retain reemployment rights.
- In general, returning service members must be reemployed in the job that they would have attained had they not been absent for military service, with the same seniority, status and pay, as well as other rights and benefits.
- Employers must make reasonable efforts to accommodate disabled veterans.
- Individuals performing military duty of more than 30 days may elect to continue employer-sponsored health care for up to 18 months (however, the service member may be required to pay both the employer and employee share of the premium). For military service of less than 31 days, health care coverage is provided as if the service member had remained employed.

On September 20, the Department of Labor published the first-ever regulations spelling out the requirements under USERRA for non-Federal employees.

#### Homelessness of Veterans

Democrats have claimed that 23 percent of America's homeless are veterans, and that your Administration is not doing enough to assist them.

You have reinvigorated the Interagency Council on Homelessness (ICH) that includes the Departments of Housing and Urban Development, Health and Human Services, and the VA. Secretary Principi currently chairs this group, which is charged with making sure that our federal efforts on homelessness are coordinated. Through the ICH's efforts, 49 Governors of States and territories have created state interagency councils on homelessness and 152 cities and counties have committed to developing 10-year plans to end chronic homelessness. You have also proposed the Samaritan Initiative, which requests \$70 million for a new, comprehensive, results-oriented HUD/HHS/VA housing and services grant program to combat chronic homelessness.



## Fact Sheet: Honoring the Courage of America's Veterans

### Today's Presidential Action

- Today, President Bush commemorated Veterans Day with a ceremony at Arlington National Cemetery to honor the courage of America's Armed Forces.
- The President is committed to honoring our Nation's veterans, and has proposed unprecedented levels of funding for veterans. His Fiscal Year (FY) 2005 budget for the Department of Veterans Affairs (VA) represents an increase in overall funding for our Nation's veterans of almost \$20 billion -- or 40 percent -- since FY 2001. It includes a 41 percent funding increase in veterans' medical care spending since FY 2001. President Bush's VA medical care budget increases enable the VA to meet its core medical mission - to serve our highest- priority veterans, including low-income veterans, those with service-related disabilities, and those who need the VA's specialized services.
- Our Nation's commitments are being kept by our military, and President Bush has a strong record of supporting America's men and women in uniform and their families. Since 2001, the President has provided four consecutive pay raises for the military, improved military housing for families living on base, and reduced to zero the average housing expenses for military families living off base. In 2003, President Bush requested \$87 billion in supplemental funding from Congress to help ensure that the troops fighting the War on Terror have the resources to accomplish their mission, including the newest body armor and vital equipment, hazard pay, and health care. The President has also increased monthly education benefits for reservists and Guard members who have been mobilized to fight the War on Terror, and permanently extended the availability of health care benefits for reservists and their families immediately before and after deployment.

### Honoring America's Veterans

President Bush honors America's veterans and their families who have sacrificed for our Nation. Under President Bush's leadership, the VA has dramatically improved health care services and the disability claims process, and is reducing the claims backlog and waiting times to receive medical treatment.

- **Improving Access to Health Care for Veterans**
  - **Increased Health Care Service to Veterans:** Since 2001, President Bush's budget requests have allowed the VA to enroll 2.5 million more veterans in health care services, increase outpatient visits from 44 million to 54 million, and increase the number of prescriptions filled from 98 million in 2001 to 116 million as of August 2004. Under the President's leadership, 194 new community-based clinics have been opened since 2001 and are now available for veterans.
  - **CARES (Capital Asset Realignment for Enhanced Services):** President Bush is seeking to modernize VA facilities and provide more care to more veterans where they need it the most. He has committed \$1.5 billion in the FY 2004 and FY 2005 budgets (and additional funding will be requested in the future) to increase outpatient health care services for veterans, build new hospitals, and replace outdated, pre-

World War II facilities. The VA is working to better distribute its network of clinics and hospitals, so that the vast majority of veterans will be within 30 miles of a VA community-based outpatient clinic or similar facility. **<LIExpanded Access to Long-Term Care in the Most Non-Intrusive Settings:** President Bush's FY 2005 budget request continues to expand long-term care for veterans through VA facilities, private and state facilities, and non-institutional care programs that allow veterans to live and be cared for near or in the comfort and familiar settings of their homes surrounded by their families.

- **More Responsive to Veterans**

- **Eliminating the Wait List for Medical Care:** This year, the list of veterans waiting more than six months for an appointment for basic medical care -- which peaked at 300,000 -- has been essentially eliminated.
- **Cutting the Disability Claims Backlog:** The President promised to reduce the disability claims backlog, and, at his request, Congress has provided the VA with the resources it needs to reduce claims. Claims backlogs have dropped from a high of 432,000 and are moving toward a VA goal of 250,000. The volume of claims decisions per month has increased from 40,000 to more than 70,000. The average length of time to process a veteran's compensation claim has dropped from approximately 230 days to 160 days.
- **Giving Priority to Service-Connected Needs:** Treating veterans with military disabilities, lower incomes, and special needs has always been the VA's core medical care mission and its highest priority. Under President Bush's leadership, the VA has established a new scheduling system to ensure that veterans seeking care for a service-connected condition are first in line. No veteran disabled in the service of our Nation will ever be turned away.
- **Providing Concurrent Receipt of Benefits:** The President twice signed legislation providing "concurrent receipt" of both military retired pay and VA disability compensation for those military retirees most deserving -- combat-injured and highly-disabled veterans -- finally reversing a century-old law preventing concurrent receipt of benefits.

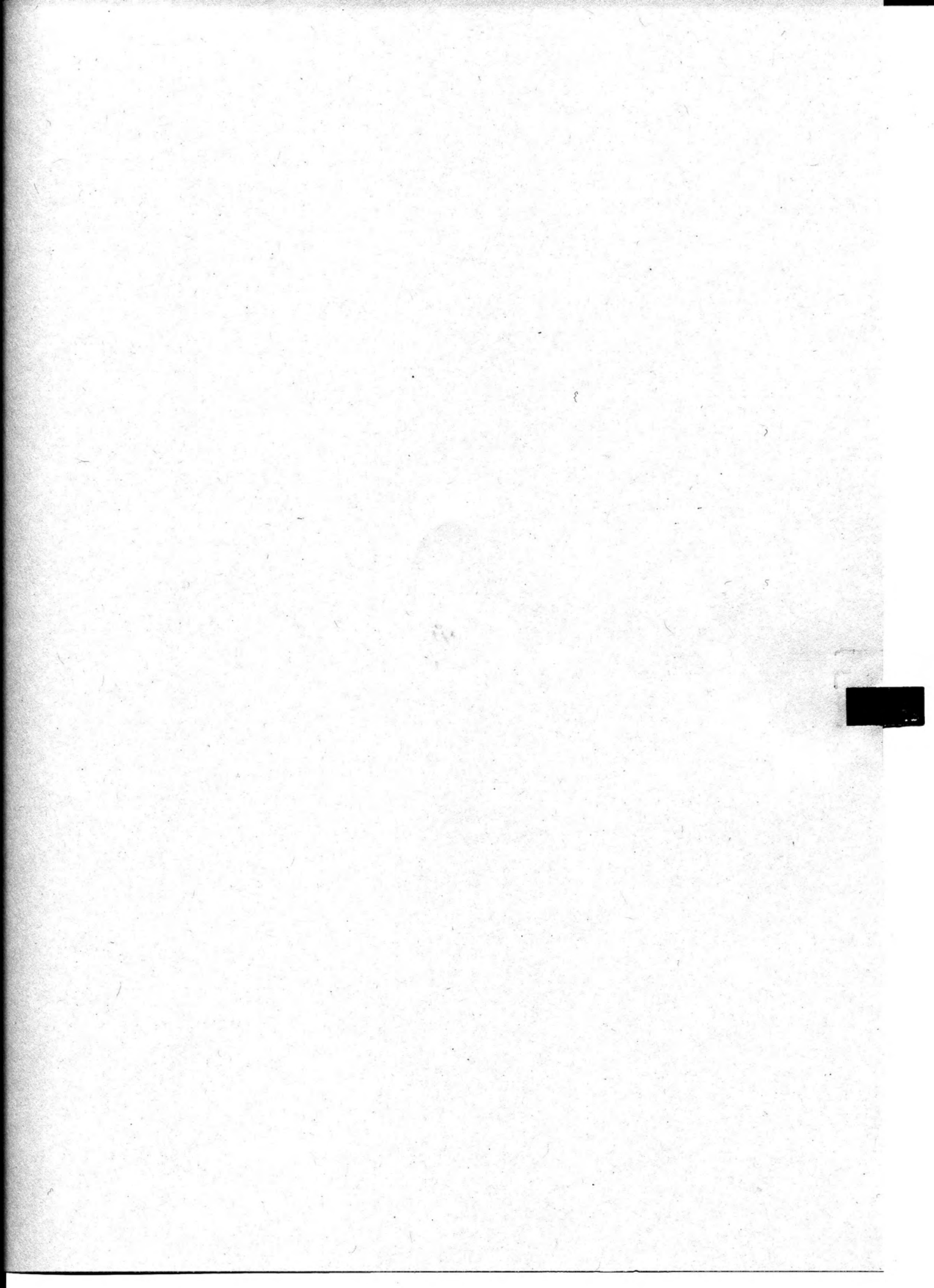
- **Serving America's Veterans and Caring for Families of Veterans**

- **Seamless Transition of Benefits for America's Newest Veterans:** Under President Bush's leadership, the VA is reaching out to 136 military bases to provide America's newest veterans with the services they have earned and to bring about a seamless transition for new veterans from military to civilian status. To date, more than 32,000 veterans who served in Afghanistan and Iraq have been provided VA care.
- **Caring for Families of Veterans:** The VA makes pensions based on need available to surviving spouses and unmarried children of deceased veterans with wartime experience. President Bush signed the Veterans Benefits Act authorizing new and expanded benefits for disabled veterans, surviving spouses, and children. To

comfort families and honor veterans with a hallowed, final resting place, the President signed the National Cemetery Expansion Act of 2003 into law, authorizing the future development of six new national cemeteries across the country.

- **Help for Homeless Veterans:** President Bush's 2003 budget expanded community grants to all 50 states and the District of Columbia for the first time in history, ensuring that homeless veterans most in need have access to permanent housing, health care, and other support services.

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THE DIRECTOR

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

October 13, 2004

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4837 – Military Construction Appropriations, FY 2005

Sponsors: Representative Young (R), Florida  
Senator Stevens (R), Alaska

Last Day for Action

The last day for action is October 25, 2004 – Monday.

While funding for military construction and family housing is currently provided under P.L. 108-309, the FY 2005 Continuing Resolution, this bill contains emergency funding for recovery and response efforts primarily related to Hurricanes Charley, Frances, Ivan and Jeanne.

In particular, the bill contains emergency funding for the Department of Homeland Security's Federal Emergency Management Agency (FEMA). Your signature is recommended as soon as possible to ensure FEMA has the necessary resources to ensure there is no disruption in their operations to provide assistance in response to these disasters.

Purpose

H.R. 4837 provides: FY 2005 appropriations for military construction and family housing; FY 2005 emergency appropriations for hurricane relief; FY 2005 appropriations for drought relief; and, authorization for Federal loan guarantees for an Alaska natural gas pipeline.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Defense	Approval
Other affected departments and agencies	Approval (assumed)

Summary

H.R. 4837 provides military construction and family housing appropriations of \$10.0 billion in net discretionary budget authority for programs funded by the bill. This funding level is \$0.5 billion above your request of \$9.5 billion, and \$0.7 billion above the FY 2004 enacted level.

In addition, H.R. 4837 provides \$11.6 billion in emergency appropriations for relief from recent hurricanes, \$167.5 million below the level you requested, as well as an estimated \$2.9 billion in appropriations for drought and other non-hurricane farm disasters that is offset by an estimated \$2.9 billion of savings from the Conservation Security Program (CSP) after FY 2005, most of which is expected to be realized after FY 2008.

H.R. 4837 also authorizes the construction and operation of an Alaska natural gas pipeline. The enrolled bill authorizes \$18 billion in loan guarantees to finance its construction.

The conference report on H.R. 4837 passed the House by a vote of 374-0 on October 9th and the Senate by voice vote on October 11th.

#### Military Construction Appropriations

The enrolled bill largely supports your military housing initiative, efforts to improve the quality of life for our service members, the continuation of clean-up at prior base closure sites, and the construction of facilities to destroy chemical weapons at several locations. Overall, the bill improves the quality of life for soldiers by providing funds for barracks, child care development centers, hospital and medical facilities, and new housing units. Most of the \$0.5 billion increase is for 125 unrequested military construction projects in various locations across the United States. Selected details of the bill include the following:

*Overseas Basing.* The FY 2004 Military Construction Appropriations Act, P.L. 108-132, established a Commission to review the overseas military force structure and to provide a report of its findings to the President and the Congress by December 31, 2004. The enrolled bill extends the tenure of the Commission to August 15, 2005.

*Privatization and Family Housing.* The enrolled bill rescinds \$34 million for privatization projects. This rescission could have an impact on your goal of eliminating inadequate housing for military service members and their families by 2007.

*Military Construction Project Rescissions.* H.R. 4837 rescinds several projects overseas. DOD planned to reprogram funds to support other Global War on Terror projects such as a runway at Bagram Air Force Base, Afghanistan.

*VXX Helicopters.* The bill provides only \$40 million of the \$80 million requested for the new VXX helicopter test and development facilities at Patuxent River Naval Air Station in Maryland. The related VXX helicopter hangar construction at the Quantico, Virginia Marine Corps Air Station was fully funded at \$18.5 million.

*Foreign Currency Fluctuation Fund.* The enrolled bill does not include a provision in previous Military Construction Appropriations Acts that allows DOD to transfer unobligated funds in expired accounts to the Foreign Currency Fluctuations, Construction account. Without this language, DOD will not be able to cover exchange rate losses in FY 2005, as it was able to do in FY 2004.

## Emergency Hurricane Response

H.R. 4837 includes funding to address the response and recovery efforts primarily related to Hurricanes Charley, Frances, Ivan and Jeanne as discussed below.

*Department of Agriculture (USDA).* The enrolled bill provides \$721.6 million for USDA for emergency hurricane relief. While this amount is \$191.5 million below the level you requested, those funds were instead provided within the amounts for additional assistance for drought and other non-hurricane related disasters. Of the funds provided for USDA, \$113.1 million is for the Forest Service for erosion control and restoration of fisheries and endangered species habitat, and for clean-up, and repair needs for roads, trails and facilities, in national forests that were damaged by Hurricanes Charley, Frances, Ivan, and Jeanne and Tropical Storm Gaston; \$350.0 million is for the Natural Resources Conservation Service and the Farm Service Agency to provide cost-share assistance for emergency measures to retard runoff and prevent soil erosion in damaged watersheds, as well as to clean up and repair farmland and rangelands damaged by Hurricanes Charley, Frances, Ivan, and Jeanne; and \$172.5 million is for agricultural assistance to provide needed financial assistance to agricultural producers suffering crop losses from 2004 hurricanes. The bill also provides \$68 million to help rural communities improve their water and wastewater treatment facilities and other community facilities and \$18 million for homeowners to repair their homes and for construction and repair of farmworker housing.

*Department of Commerce.* The bill provides \$20.7 million for the National Oceanic and Atmospheric Administration to repair facilities, to address impacts to endangered species and their habitat, and to provide necessary upgrades to hurricane forecasting assets. This amount is \$9 million more than the level you requested.

*Department of Defense (DOD).* The bill provides \$1.1 billion for DOD, for costs associated with the evacuation, base preparation, base recovery, and damage to structures and equipment at various military facilities caused by Hurricanes Charley, Frances, Ivan, and Jeanne. This amount is the same as the level you requested and the funds will support the immediate rehabilitation of utilities, the repair and reconstruction of facilities, and reimbursement for those who were required to evacuate.

*Department of Homeland Security.* As requested, H.R. 4837 provides \$6.5 billion for FEMA for disaster relief for States affected by Hurricanes Charley, Frances, Ivan, and Jeanne, as well as other ongoing and future disasters. The funding will support response and recovery efforts, including assistance to families and individuals, and other urgent requirements such as emergency protective measures and debris removal in the affected areas. Additionally, this funding will support the rebuilding of State and local public infrastructure. These funds are in addition to the \$2 billion provided for FEMA in P.L. 108-303 that you signed into law on September 8, 2004. In addition, the bill provides \$33.4 million, as requested, for hurricane-related damage sustained by the Coast Guard to repair damage to Coast Guard facilities, to replace lost or damaged buoys and channel markers, and for other emergency expenses such as personnel evacuation.

*Department of Health and Human Services.* The enrolled bill provides \$50.0 million for the Public Health and Social Services Emergency Fund to help provide nutritional, medical and social services to affected elderly individuals, to provide social services support to communities most affected by the hurricanes, to make available counseling services, to support an increase in demand for unreimbursed health care, and to restore community health centers in the impacted areas. This amount is equal to the request.

*Department of Housing and Urban Development.* The enrolled bill provides \$150.0 million for Community Development Grants to States for disaster relief, long-term recovery, and mitigation in communities affected by disasters declared from August 31, 2003 to October 1, 2004. Although this amount is the same as the level you requested the bill does not limit funding to Florida disasters, as you had proposed.

*Department of the Interior (DOI).* The enrolled bill provides \$97.4 million for clean-up and facility repair at national wildlife refuges, national park units, and at United States Geological Survey sites in the affected areas, including Merritt Island, J.H. "Ding" Darling, and Okefenokee in Florida, and the Blue Ridge Parkway in North Carolina. This amount is \$5 million more than the level you requested. The additional \$5 million provides funds through the Bureau of Reclamation to address drought conditions in the State of Nevada.

*Department of Justice.* The bill provides \$24.1 million, as requested, for the Federal Bureau of Prisons to repair structural damage caused by Hurricane Ivan and other related storms to numerous Federal prison facilities located in Florida, Alabama, and Georgia. This assistance is needed to repair and replace damaged roofs, repair and replace buildings and secure perimeter fencing, remove downed trees, and replace lost or damaged equipment and supplies.

*Department of Transportation.* The enrolled bill provides \$1.2 billion for the Federal Highway Administration's Emergency Relief Program for emergency repairs to eligible highways and roads affected by Hurricanes Charley, Frances, Ivan, and Jeanne, and Tropical Storm Gaston, the same as the level you requested. In addition, the enrolled bill provides \$30.1 million, the same amount you requested, for the Federal Aviation Administration (FAA) to repair or replace the multiple public-use airport facilities that were damaged in the recent storms.

*Department of Veterans Affairs (VA).* The enrolled bill provides \$124.1 million for hurricane response and relief. Uses include, but are not limited to, repairing hospitals and outpatient clinics, as well as reimbursing VA for assistance to local communities, overtime for VA staff, contracting with medical providers for care, and repairing national cemeteries. This amount is the same as the level you requested.

*U.S. Army Corps of Engineers (Corps).* H.R. 4837 provides \$372.4 million for the Corps to restore navigation channels, repair and rehabilitate coastal areas, and address other projects in areas affected by the hurricanes. This amount is \$10 million more than the level you requested. The additional \$10 million provides funds to the Secretary of the Army, acting through the Corps, for federally declared disaster areas in West Virginia.

*Environmental Protection Agency.* As requested, the enrolled bill provides \$3.0 million to restore buildings and facilities that were damaged by Hurricane Ivan.

*International Assistance Programs.* The enrolled bill provides \$100.0 million for international disaster and famine assistance funds for relief and rehabilitation requirements stemming from the damage caused by recent hurricanes and tropical storms in Grenada, Jamaica, Haiti, and other nations. This amount is the same as the level you requested.

*National Aeronautics and Space Administration (NASA).* The enrolled bill provides \$126.0 million, as requested, for NASA, including: \$89 million for repair of buildings and communications systems at Kennedy Space Center; \$23 million for repair of equipment exposed to the weather; and \$14 million to provide temporary workspaces for displaced employees.

*Small Business Administration (SBA).* The enrolled bill provides \$929.0 million to cover the large number of disaster loans expected to be made to individuals and businesses due to the recent hurricanes. This amount is the same as the level you requested, and allows SBA to make up to \$4.5 billion in loans to aid in the recovery from natural disasters.

*Unanticipated Needs.* The enrolled bill provides \$70.0 million to support the American Red Cross in their mission to shelter, feed, and otherwise support victims of the recent natural disasters in Florida and other affected areas. This amount is the same as the level you requested. The American Red Cross is the only non-governmental agency with responsibilities under the National Response Plan, and back-to-back major hurricanes have put an unprecedented strain on its finances. Traditionally, the American Red Cross relies on private donors to support its relief activities, not taxpayer funds, and that will continue to be the case for future disasters.

#### Farm Disaster Assistance Program

H.R. 4837 authorizes a national crop disaster assistance program, which is currently estimated to cost \$2.9 billion. You had requested crop disaster assistance only for areas affected by this year's hurricanes; the assistance provided in this bill will also cover areas that have experienced drought, flooding, freezes, or other natural disasters. The payment rates are higher than those you proposed, and the final version of the bill does not include requirements that limit payments to \$80,000 per person as you proposed. In addition, the enrolled bill provides funding for livestock feeding assistance and for tree replacement funding for orchards.

Congress has offset the cost of this assistance by imposing a limit on the amount of funding available for the Conservation Security Program that will result in savings after FY 2005, most of which is expected to be realized after FY 2008.

#### Alaska Natural Gas Pipeline Authorization

The enrolled bill authorizes the construction of an Alaskan natural gas pipeline, similar to language that was included in the Conference Report on H.R. 6, the Energy Policy Act of 2003. It authorizes \$18 billion in loan guarantees to finance the construction, with 100 percent of the loan principle and interest backed by the full faith and credit of the United States, and authorizes "such sums as necessary" for the loan subsidy appropriation. The guarantee of the total loan and

interest and other aspects of the structure of the program may result in high costs for taxpayers; the loan subsidy cost alone would likely exceed \$1 billion.

In addition, provisions in the bill require the pipeline to follow the "southern route" through Alaska, establish a Presidentially-appointed Federal Coordinator for Alaskan Natural Gas Projects, and authorize \$20 million in grants from the Department of Labor to recruit and train workers for the pipeline and to build a training facility for them in Fairbanks, Alaska.

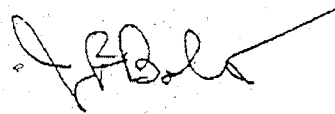
Recommendation

On balance, H.R. 4837 is an acceptable bill providing funds to support military construction programs and urgently needed emergency funding to address the effects of the recent hurricanes in Florida and other affected areas.

The bill abides by the Administration-supported aggregate discretionary funding level for FY 2005 of \$819 billion, in addition to \$2.5 billion in advance appropriations for Project BioShield. The Congress did not include any emergency funding that was not mutually agreed upon in advance by both the Congress and the Administration. All the emergency funding in this bill is clearly defined as a necessary expenditure, sudden, urgent and not permanent in nature.

I join the Secretary of Defense and the heads of the other affected Departments and agencies in recommending approval of the enrolled bill. A signing statement is attached for your consideration.

Sincerely,



Joshua B. Bolten  
Director

Attachment

**President's Statement on H.R. 4837, "Military Construction Appropriations and  
Emergency Hurricane Supplemental Appropriations Act, 2005"**

Today, I have signed into law H.R. 4837, the "Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005." This Act provides funding for construction to support the operations of the U.S. Armed Forces and for military family housing. The Act also provides the funds I requested to help citizens in Florida and elsewhere rebuild their lives in the aftermath of multiple hurricanes and other natural disasters.

Sections 107, 110, 113, 118, and 303 of the Act provide for notice to the Congress of relocation of activities between military installations, initiation of a new installation abroad, U.S. military exercises involving \$100,000 in construction costs, specific actions to encourage foreign nations to assume a greater share of the common defense burden, and initiation of certain types of programs. The Supreme Court of the United States has stated that the President's authority to classify and control access to information bearing on national security flows from the Constitution and does not depend upon a legislative grant of authority. Although notice can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must act promptly under his constitutional grants of executive power and authority as Commander in Chief while protecting sensitive national security information. The executive branch shall construe these sections in a manner consistent with the constitutional authority of the President.

Section 128 of the Act purports to require Department of Defense officials to respond in writing within 21 days to any question or inquiry from the congressional military construction appropriations subcommittees. The executive branch shall construe section 128 in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and 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.

The executive branch shall construe section 110(d)(2) of the Alaska Natural Gas Pipeline Act as contained in Division C of the Act, relating to submission of legislative recommendations, in a manner consistent with the President's exclusive constitutional authority to recommend for the consideration of the Congress such measures as the President judges necessary and expedient.

GEORGE W. BUSH  
THE WHITE HOUSE,  
October 13, 2004.

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