

Calendar No. 296

108TH CONGRESS
1ST SESSION

S. 1689

Making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2003

Mr. STEVENS, from the Committee on Appropriations, reported the following original bill, which was read twice and placed on the calendar

A BILL

Making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2004, and for other pur-
6 poses, namely:

1 TITLE I—NATIONAL SECURITY

2 CHAPTER 1

3 DEPARTMENT OF DEFENSE

4 MILITARY PERSONNEL

5 MILITARY PERSONNEL, ARMY

6 For an additional amount for “Military Personnel,
7 Army”, \$12,858,870,000.

8 MILITARY PERSONNEL, NAVY

9 For an additional amount for “Military Personnel,
10 Navy”, \$816,100,000.

11 MILITARY PERSONNEL, MARINE CORPS

12 For an additional amount for “Military Personnel,
13 Marine Corps”, \$753,190,000.

14 MILITARY PERSONNEL, AIR FORCE

15 For an additional amount for “Military Personnel,
16 Air Force”, \$3,384,700,000.

17 OPERATION AND MAINTENANCE

18 OPERATION AND MAINTENANCE, ARMY

19 For an additional amount for “Operation and Main-
20 tenance, Army”, \$24,946,464,000: *Provided*, That the en-
21 tire amount is designated by the Congress as an emer-
22 gency requirement pursuant to section 502 of House Con-
23 current Resolution 95, the concurrent resolution on the
24 budget for fiscal year 2004: *Provided further*, That the en-
25 tire amount shall be available only to the extent that an

1 official budget request for a specific dollar amount, that
 2 includes designation of the entire amount of the request
 3 as an emergency requirement as defined in House Concur-
 4 rent Resolution 95, the concurrent resolution on the budg-
 5 et for fiscal year 2004, is transmitted by the President
 6 to the Congress.

7 OPERATION AND MAINTENANCE, NAVY

8 (INCLUDING TRANSFER OF FUNDS)

9 For an additional amount for “Operation and Main-
 10 tenance, Navy”, \$1,976,258,000, of which up to
 11 \$80,000,000 may be transferred to the Department of
 12 Homeland Security for Coast Guard Operations.

13 OPERATION AND MAINTENANCE, MARINE CORPS

14 For an additional amount for “Operation and Main-
 15 tenance, Marine Corps”, \$1,198,981,000.

16 OPERATION AND MAINTENANCE, AIR FORCE

17 For an additional amount for “Operation and Main-
 18 tenance, Air Force”, \$5,516,368,000.

19 OPERATION AND MAINTENANCE, DEFENSE-WIDE

20 For an additional amount for “Operation and Main-
 21 tenance, Defense-Wide”, \$4,218,452,000, of which—

22 (1) not to exceed \$15,000,000 may be used for
 23 the CINC Initiative Fund account, to be used pri-
 24 marily in Iraq and Afghanistan; and

1 (2) \$1,000,000,000, to remain available until
2 expended, may be used, notwithstanding any other
3 provision of law, for payments to reimburse Paki-
4 stan, Jordan, and other key cooperating nations, for
5 logistical, military, and other support provided, or to
6 be provided, to United States military operations:
7 *Provided*, That such payments may be made in such
8 amounts as the Secretary of Defense, with the con-
9 currence of the Secretary of State, and in consulta-
10 tion with the Director of the Office of Management
11 and Budget, may determine, in his discretion, based
12 on documentation determined by the Secretary of
13 Defense to adequately account for the support pro-
14 vided, and such determination is final and conclusive
15 upon the accounting officers of the United States,
16 and 15 days following notification to the appropriate
17 congressional committees: *Provided further*, That the
18 Secretary of Defense shall provide quarterly reports
19 to the Committees on Appropriations on the use of
20 these funds.

21 OPERATION AND MAINTENANCE, MARINE CORPS

22 RESERVE

23 For an additional amount for “Operation and Main-
24 tenance, Marine Corps Reserve”, \$16,000,000.

1 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

2 For an additional amount for “Operation and Main-
3 tenance, Air Force Reserve”, \$53,000,000.

4 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

5 For an additional amount for “Operation and Main-
6 tenance, Air National Guard”, \$214,000,000.

7 OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

8 For an additional amount for “Overseas Humani-
9 tarian, Disaster, and Civic Aid”, \$35,500,000.

10 IRAQ FREEDOM FUND

11 (TRANSFER OF FUNDS)

12 For “Iraq Freedom Fund”, \$1,988,600,000, to re-
13 main available for transfer until September 30, 2005, for
14 the purposes authorized under this heading in Public Law
15 108–11: *Provided*, That the Secretary of Defense may
16 transfer the funds provided herein to appropriations for
17 military personnel; operation and maintenance; Overseas
18 Humanitarian, Disaster Assistance, and Civic Aid; pro-
19 curement; military construction; the Defense Health Pro-
20 gram; and working capital funds: *Provided further*, That
21 funds transferred shall be merged with and be available
22 for the same purposes and for the same time period as
23 the appropriation or fund to which transferred: *Provided*
24 *further*, That this transfer authority is in addition to any
25 other transfer authority available to the Department of

1 Defense: *Provided further*, That upon a determination that
 2 all or part of the funds transferred from this appropriation
 3 are not necessary for the purposes provided herein, such
 4 amounts may be transferred back to this appropriation:
 5 *Provided further*, That the Secretary of Defense shall, not
 6 fewer than 5 days prior to making transfers from this ap-
 7 propriation, notify the congressional defense committees
 8 in writing of the details of any such transfer: *Provided*
 9 *further*, That the Secretary shall submit a report no later
 10 than 30 days after the end of each fiscal quarter to the
 11 congressional defense committees summarizing the details
 12 of the transfer of funds from this appropriation.

13 PROCUREMENT

14 MISSILE PROCUREMENT, ARMY

15 For an additional amount for “Missile Procurement,
 16 Army”, \$6,200,000, to remain available until September
 17 30, 2006.

18 PROCUREMENT OF WEAPONS AND TRACKED COMBAT

19 VEHICLES, ARMY

20 For an additional amount for “Procurement of Weap-
 21 ons and Tracked Combat Vehicles, Army”, \$104,000,000,
 22 to remain available until September 30, 2006: *Provided*,
 23 That the entire amount is designated by the Congress as
 24 an emergency requirement pursuant to section 502 of
 25 House Concurrent Resolution 95, the concurrent resolu-

1 tion on the budget for fiscal year 2004: *Provided further*,
2 That the entire amount shall be available only to the ex-
3 tent that an official budget request for a specific dollar
4 amount, that includes designation of the entire amount of
5 the request as an emergency requirement as defined in
6 House Concurrent Resolution 95, the concurrent resolu-
7 tion on the budget for fiscal year 2004, is transmitted by
8 the President to the Congress.

9 OTHER PROCUREMENT, ARMY

10 For an additional amount for “Other Procurement,
11 Army”, \$1,078,687,000, to remain available until Sep-
12 tember 30, 2006: *Provided*, That the entire amount is des-
13 ignated by the Congress as an emergency requirement
14 pursuant to section 502 of House Concurrent Resolution
15 95, the concurrent resolution on the budget for fiscal year
16 2004: *Provided further*, That the entire amount shall be
17 available only to the extent that an official budget request
18 for a specific dollar amount, that includes designation of
19 the entire amount of the request as an emergency require-
20 ment as defined in House Concurrent Resolution 95, the
21 concurrent resolution on the budget for fiscal year 2004,
22 is transmitted by the President to the Congress.

1 AIRCRAFT PROCUREMENT, NAVY

2 For an additional amount for “Aircraft Procurement,
3 Navy”, \$128,600,000, to remain available until September
4 30, 2006.

5 OTHER PROCUREMENT, NAVY

6 For an additional amount for “Other Procurement,
7 Navy”, \$76,357,000, to remain available until September
8 30, 2006.

9 PROCUREMENT, MARINE CORPS

10 For an additional amount for “Procurement, Marine
11 Corps”, \$123,397,000, to remain available until Sep-
12 tember 30, 2006.

13 AIRCRAFT PROCUREMENT, AIR FORCE

14 For an additional amount for “Aircraft Procurement,
15 Air Force”, \$40,972,000, to remain available until Sep-
16 tember 30, 2006.

17 MISSILE PROCUREMENT, AIR FORCE

18 For an additional amount for “Missile Procurement,
19 Air Force”, \$20,450,000, to remain available until Sep-
20 tember 30, 2006.

21 OTHER PROCUREMENT, AIR FORCE

22 For an additional amount for “Other Procurement,
23 Air Force”, \$3,441,006,000, to remain available until
24 September 30, 2006.

1 PROCUREMENT, DEFENSE-WIDE

2 For an additional amount for “Procurement, De-
3 fense-Wide”, \$435,635,000, to remain available until Sep-
4 tember 30, 2006.

5 RESEARCH, DEVELOPMENT, TEST AND
6 EVALUATION

7 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
8 NAVY

9 For an additional amount for “Research, Develop-
10 ment, Test and Evaluation, Navy”, \$34,000,000, to re-
11 main available until September 30, 2005.

12 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
13 AIR FORCE

14 For an additional amount for “Research, Develop-
15 ment, Test and Evaluation, Air Force”, \$39,070,000, to
16 remain available until September 30, 2005.

17 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
18 DEFENSE-WIDE

19 For an additional amount for “Research, Develop-
20 ment, Test and Evaluation, Defense-Wide”,
21 \$265,817,000, to remain available until September 30,
22 2005.

3 For an additional amount for “Working Capital
4 Fund, Defense-Wide”, \$600,000,000.

6 For an additional amount for “National Defense Sea-
7 lift Fund”, \$24,000,000, to remain available until ex-
8 pended.

10 DEFENSE HEALTH PROGRAM

11 For an additional amount for “Defense Health Pro-
12 gram”, \$658,380,000 for Operation and maintenance.

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$73,000,000: *Provided*, That these funds may be used only for such activities related to Afghanistan: *Provided further*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; and research, development, test, and evaluation: *Provided further*, That the funds transferred shall be merged with and be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*,

1 That the transfer authority provided in this paragraph is
 2 in addition to any other transfer authority available to the
 3 Department of Defense: *Provided further*, That upon a de-
 4 termination that all or part of the funds transferred from
 5 this appropriation are not necessary for the purposes pro-
 6 vided herein, such amounts may be transferred back to
 7 this appropriation.

8 RELATED AGENCIES

9 INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

10 (INCLUDING TRANSFER OF FUNDS)

11 For an additional amount for “Intelligence Commu-
 12 nity Management Account”, \$21,500,000, to remain avail-
 13 able until September 30, 2005; of which \$3,000,000 may
 14 be transferred to and merged with the Department of En-
 15 ergy, “Other Defense Activities”, and \$15,500,000 may
 16 be transferred to and merged with the Federal Bureau of
 17 Investigation, “Salaries and Expenses”.

CHAPTER 2

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construc-
 tion, Army”, \$119,900,000, to remain available until
 September 30, 2008: *Provided*, That such funds may be
 obligated and expended to carry out military construction
 projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$292,550,000, to remain available until September 30, 2008: *Provided*, That such funds may be obligated and expended to carry out military construction projects not otherwise authorized by law.

1 CHAPTER 3

2 GENERAL PROVISIONS, THIS TITLE

3 SEC. 301. Section 202(b) of the Afghanistan Free-
4 dom Support Act of 2002 (Public Law 107–327) is
5 amended by striking “\$300,000,000” and inserting
6 “\$450,000,000”.

7 SEC. 302. Upon his determination that such action
8 is necessary in the national interest, the Secretary of De-
9 fense may transfer between appropriations up to
10 \$2,500,000,000 of the funds made available in this title,
11 and in addition such funds as necessary, not to exceed
12 \$5,000,000,000, as approved by the House and Senate
13 Appropriations Committees, Subcommittees on Defense:
14 *Provided*, That the Secretary shall notify the Congress
15 promptly of each transfer made pursuant to this authority:
16 *Provided further*, That the transfer authority provided in
17 this section is in addition to any other transfer authority
18 available to the Department of Defense: *Provided further*,
19 That the authority in this section is subject to the same

1 terms and conditions as the authority provided in section
2 8005 of the Department of Defense Appropriations Act,
3 2004.

4 SEC. 303. Funds appropriated in this title, or made
5 available by transfer of funds in or pursuant to this title,
6 for intelligence activities are deemed to be specifically au-
7 thorized by the Congress for purposes of section 504 of
8 the National Security Act of 1947 (50 U.S.C. 414).

9 SEC. 304. None of the funds available to the Depart-
10 ment of Defense may be obligated to implement any action
11 which alters the command responsibility or permanent as-
12 signment of forces until 90 days after such plan has been
13 provided to the congressional defense committees.

14 SEC. 305. Sections 1318 and 1319 of Public Law
15 108–11 shall remain in effect during fiscal year 2004.

16 SEC. 306. From October 1, 2003 through September
17 30, 2004, (a) the rates of pay authorized by section 310(a)
18 of title 37, United States Code, shall be increased to \$225;
19 and (b) the rates of pay authorized by section 427(a)(1)
20 of title 37, United States Code, shall be increased to \$250.

21 SEC. 307. (a) Section 1313 of Public Law 108–11
22 is amended by adding the word, “unobligated”, before
23 “balances”.

24 (b) After October 31, 2003, adjustments to obliga-
25 tions that would have been properly chargeable to the De-

1 fense Emergency Response Fund shall be charged to any
2 current appropriation account of the Department of De-
3 fense available for the same purpose.

4 SEC. 308. Within 30 days after the enactment of this
5 Act, the Secretary of Defense shall report to the Commit-
6 tees on Appropriations on progress to implement the
7 terms of section 8082 of the Department of Defense Ap-
8 propriations Act, 2004.

9 SEC. 309. Not later than thirty days after the date
10 of enactment of this Act, the Secretary of Defense shall
11 submit a report to the congressional defense committees
12 describing an Analysis of Alternatives for replacing the ca-
13 pabilities of the fleet of KC-135 aircraft.

14 SEC. 310. None of the funds provided in this title
15 may be used to finance programs or activities denied by
16 Congress in fiscal year 2003 or 2004 appropriations to
17 the Department of Defense or to initiate a procurement
18 or research, development, test and evaluation new start
19 program without prior notification to the congressional de-
20 fense committees.

21 SEC. 311. During the current fiscal year, funds avail-
22 able to the Department of Defense for operation and
23 maintenance may be used, notwithstanding any other pro-
24 vision of law, to provide supplies, services, transportation,
25 including airlift and sealift, and other logistical support

1 to coalition forces supporting military and stability oper-
2 ations in Iraq: *Provided*, That the Secretary of Defense
3 shall provide quarterly reports to the Committees on Ap-
4 propriations regarding support provided under this sec-
5 tion.

6 SEC. 312. Notwithstanding any other provision of
7 law, from funds available to the Department of Defense
8 for operation and maintenance in fiscal year 2004, not to
9 exceed \$200,000,000 may be used by the Secretary of De-
10 fense, with the concurrence of the Secretary of State, to
11 provide assistance only to the New Iraqi Army and the
12 Afghan National Army to enhance their capability to com-
13 bat terrorism and to support U.S. military operations in
14 Iraq and Afghanistan: *Provided*, That such assistance may
15 include the provision of equipment, supplies, services,
16 training and funding: *Provided further*, That the authority
17 to provide assistance under this section is in addition to
18 any other authority to provide assistance to foreign na-
19 tions: *Provided further*, That the Secretary of Defense
20 shall notify Congress not less than 15 days before pro-
21 viding assistance under the authority of this section.

22 SEC. 313. (a) REPORT ON MILITARY READINESS IM-
23 PPLICATIONS OF OPERATION IRAQI FREEDOM.—

24 (1) The Secretary of Defense shall submit to
25 the congressional defense committees a report as-

1 sessing the implications for United States military
2 readiness of the participation of United States
3 ground combat forces in Operation Iraqi Freedom.

4 (2) The report shall be submitted not later than
5 30 days after the date of the enactment of this Act.

6 (b) MATTERS TO BE INCLUDED.—The report under
7 subsection (a) shall include the following:

8 (1) An estimate of the total number of forces
9 required to carry out Operation Iraqi Freedom, in-
10 cluding forces required for a rotation base.

11 (2) An estimate of the expected duration of the
12 operation.

13 (3) An estimate of the cost of the operation to-
14 gether with an explanation of how the Secretary will
15 use the funds provided for the operation, and an as-
16 sessment of how such proposed funding plan would
17 affect overall military readiness.

18 (4) An assessment of how readily forces partici-
19 pating in the operation could be redeployed to addi-
20 tional overlapping major conflicts while providing for
21 the President the option to call for victory in one of
22 those conflicts, as well as to conduct a limited num-
23 ber of smaller-scale contingency operations, includ-
24 ing an analysis of the availability of strategic lift,
25 the likely condition of equipment, and the extent of

1 retraining necessary to facilitate such a redeploy-
2 ment.

3 (5) An assessment of the effect of the operation
4 on the general combat readiness and deployability of
5 combat units to defend the homeland and for the
6 Global War on Terrorism.

7 (6) An assessment of the effect of the operation
8 on the four 2001 Quadrennial Defense Review de-
9 fense policy goals, namely assuring allies and
10 friends, dissuading future military competitors, de-
11 terring threats and coercion against United States
12 interests and, if deterrence fails, decisively defeating
13 any adversary.

14 (7) An assessment of the effect the operation
15 would have on the general combat readiness and
16 deployability of combat units not designated to be
17 part of the operation including active forces, reserve,
18 and National Guard.

19 (8) For current deployment and subsequent ro-
20 tations, an assessment of the number and type of
21 combat support and combat service support units re-
22 quired from active forces, reserve, and National
23 Guard, and the expected duration of each rotation.

24 (9) An assessment of the degree to which the
25 operation will require the use of reserve component

1 units and personnel and the use and timing of invol-
2 untary Selected Reserve callup authority as provided
3 by section 12304 of title 10, United States Code.

4 (10) An assessment of the anticipated annual
5 cost of equipment refurbishment and replacement re-
6 sulting from the operation.

7 (11) An assessment of how the increased oper-
8 ational tempo associated with the operation would
9 affect the mission capable readiness rates and over-
10 all health of both strategic and theater airlift assets.

11 (12) An assessment of the effect the operation
12 will have on the ability of the United States Armed
13 Forces, including the active forces, reserve, and Na-
14 tional Guard, to meet recruiting goals.

15 (13) An assessment of the effect of the oper-
16 ation on training infrastructure and instrumentation
17 of United States training ranges, including the ac-
18 tive forces, reserve, and National Guard.

19 (14) An assessment of the effect the operation
20 will have on retention among active forces, reserve,
21 and National Guard.

22 (15) An assessment of the effect of the oper-
23 ation on quality of life issues for active forces, re-
24 serve, and National Guard.

1 (c) FORM OF REPORT.—The report required by sub-
 2 section (a) shall be submitted in unclassified form, but
 3 may include a classified annex.

4 (d) CONGRESSIONAL DEFENSE COMMITTEES DE-
 5 FINED.—In this section, the term “congressional defense
 6 committees” means—

7 (1) the Committees on Armed Services and Ap-
 8 propriations of the Senate; and

9 (2) the Committees on Armed Services and Ap-
 10 propriations of the House of Representatives.

11 SEC. 314. (a) Section 1075 of title 10, United States
 12 Code, is amended—

13 (1) by inserting “(a) IN GENERAL.—” before
 14 “When”; and

15 (2) by striking the second sentence and insert-
 16 ing the following:

17 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
 18 any of the following:

19 “(1) An enlisted member, or former enlisted
 20 member, of a uniformed service who is entitled to re-
 21 tired or retainer pay or equivalent pay.

22 “(2) An officer or former officer of a uniformed
 23 service, or an enlisted member or former enlisted
 24 member of a uniformed service not described in
 25 paragraph (1), who is hospitalized under section

1 1074 of this title because of an injury or disease in-
2 curred (as determined under criteria prescribed by
3 the Secretary of Defense)—

4 “(A) as a direct result of armed conflict;

5 “(B) while engaged in hazardous service;

6 “(C) in the performance of duty under
7 conditions simulating war; or

8 “(D) through an instrumentality of war.”.

9 (b) Section 1075(b) of title 10, United States Code,
10 as added by subsection (a), shall take effect on the date
11 of the enactment of this Act, and shall apply with respect
12 to injuries or diseases incurred on or after that date.

13 SEC. 315. (a) TRANSFER AUTHORITY.—Subject to
14 subsection (b), the Secretary of Defense may transfer not
15 more than \$150,000,000 of the funds appropriated in this
16 title to the contingency construction account, authorized
17 under section 2804 of title 10, United States Code, to
18 carry out military construction projects not otherwise au-
19 thorized by law. Funds so transferred shall be merged with
20 and be available for the same purposes and the same time
21 period as the appropriation to which transferred. The
22 transfer authority under this section is in addition to any
23 other transfer authority available to the Department of
24 Defense.

1 (b) CONDITIONS ON TRANSFER.—A transfer of funds
2 under subsection (a) may not be made until the end of
3 the 7-day period beginning on the date the Secretary of
4 Defense submits written notice to the appropriate commit-
5 tees of Congress certifying that the transfer is necessary
6 to respond to, or protect against, acts or threatened acts
7 of terrorism or to support Department of Defense oper-
8 ations in Iraq, and specifying the amounts and purposes
9 of the transfer, including a list of proposed projects and
10 their estimated costs.

11 (c) NOTICE OF OBLIGATIONS.—Notwithstanding sec-
12 tion 2804(b) of title 10, United States Code, when a deci-
13 sion is made to carry out a military construction project
14 using funds transferred to the contingency construction
15 account under subsection (a), the Secretary of Defense
16 shall submit written notice to the appropriate committees
17 of Congress no later than 15 days after the obligation of
18 the funds for the project, specifying the source of the
19 transferred funds and the estimated cost of the project,
20 including form 1391.

21 (d) DEFINITIONS.—For purposes of this section, the
22 terms “appropriate committees of Congress”, “military
23 construction”, and “military installation” have the mean-
24 ings given such terms in section 2801 of title 10, United
25 States Code, except that, with respect to military construc-

tion in a foreign country, the term “military installation” includes not only buildings, structures, and other improvements to real property under the operational control of the Secretary of a military department or the Secretary of Defense, but also any building, structure, or other improvement to real property to be used by the Armed Forces, regardless of whether such use is anticipated to be temporary or of longer duration; and further excepting that “appropriate committees of Congress” shall include the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and House of Representatives.

TITLE II—INTERNATIONAL AFFAIRS

CHAPTER 1

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING RESCISSION)

Of the funds provided under this heading in Public Law 108–11 (117 Stat. 561), \$35,800,000 are rescinded.

For an additional amount for “Diplomatic and Consular Programs”, \$35,800,000, to remain available until September 30, 2005.

S 1689 PCS

1 designation of the entire amount of the request as an
 2 emergency requirement as defined in House Concurrent
 3 Resolution 95, the concurrent resolution on the budget for
 4 fiscal year 2004, is transmitted by the President to the
 5 Congress.

6 CHAPTER 2
 7 BILATERAL ECONOMIC ASSISTANCE
 8 FUNDS APPROPRIATED TO THE PRESIDENT
 9 UNITED STATES AGENCY FOR INTERNATIONAL
 10 DEVELOPMENT

11 OPERATING EXPENSES OF THE UNITED STATES AGENCY
 12 FOR INTERNATIONAL DEVELOPMENT

13 For an additional amount for “Operating Expenses
 14 of the United States Agency for International Develop-
 15 ment”, \$40,000,000, to remain available until September
 16 30, 2005.

17 CAPITAL INVESTMENT FUND

18 For an additional amount for “Capital Investment
 19 Fund”, \$60,500,000, to remain available until expended:
 20 *Provided*, That the entire amount shall be available only
 21 to the extent that an official budget request for
 22 \$60,500,000, that includes designation of the entire
 23 amount of the request as an emergency requirement as
 24 defined in House Concurrent Resolution 98 (108th Con-
 25 gress), the concurrent resolution on the budget for fiscal

1 year 2004, is transmitted by the President to the Con-
2 gress.

3 OTHER BILATERAL ECONOMIC ASSISTANCE
4 FUNDS APPROPRIATED TO THE PRESIDENT
5 IRAQ RELIEF AND RECONSTRUCTION FUND
6 (INCLUDING TRANSFERS OF FUNDS)

7 For necessary expenses for security, rehabilitation
8 and reconstruction in Iraq, \$20,304,000,000, to remain
9 available until expended, to be allocated as follows:
10 \$5,136,000,000 for security, including public safety re-
11 quirements, national security, and justice; \$5,675,000,000
12 for the electric sector; \$2,100,000,000 for oil infrastruc-
13 ture; \$3,710,000,000 for public works; \$875,000,000 for
14 water resources; \$835,000,000 for transportation and
15 telecommunications; \$470,000,000 for housing and con-
16 struction; \$850,000,000 for health; \$353,000,000 for pri-
17 vate sector development; and \$300,000,000 for refugees,
18 human rights, democracy and civil society: *Provided*, That
19 of the funds made available pursuant to the previous pro-
20 viso, not less than \$100,000,000 shall be made available
21 for democracy building activities in Iraq: *Provided further*,
22 That the Administrator of the United States Agency for
23 International Development (USAID) shall seek to ensure
24 that programs, projects, and activities administered by
25 USAID in Iraq and Afghanistan comply fully with

1 USAID’s “Policy Paper: Disability” issued on September
2 12, 1997: *Provided further*, That the Administrator shall
3 submit a report to the Committees on Appropriations not
4 later than December 31, 2004, describing the manner in
5 which the needs of people with disabilities were met in the
6 development and implementation of USAID programs,
7 projects, and activities in Iraq and Afghanistan in fiscal
8 year 2004: *Provided further*, That the Administrator, not
9 later than 180 days after enactment of this Act and in
10 consultation, as appropriate, with other appropriate de-
11 partments and agencies, the Architectural and Transpor-
12 tation Barriers Compliance Board, and nongovernmental
13 organizations with expertise in the needs of people with
14 disabilities, shall develop and implement appropriate
15 standards for access for people with disabilities for con-
16 struction projects funded by USAID: *Provided further*,
17 That of the funds appropriated under this heading, assist-
18 ance shall be made available for Iraqi civilians who have
19 suffered losses as a result of military operations: *Provided*
20 *further*, That not later than 90 days after enactment of
21 this Act the Secretary of State, in consultation with the
22 Secretary of Defense, shall submit a report to the Commit-
23 tees on Appropriations describing the progress made to-
24 ward indicting and trying leaders of the former Iraqi re-
25 gime for war crimes, genocide, or crimes against human-

1 ity: *Provided further*, That notwithstanding any provision
 2 of this chapter, none of the funds appropriated under this
 3 heading may be made available to enter into any contract
 4 or follow-on contract that uses other than full and open
 5 competitive contracting procedures as defined in 41
 6 U.S.C. 403(6): *Provided further*, That the President may
 7 waive the requirements of the previous proviso if he deter-
 8 mines that it is necessary to do so as a result of unfore-
 9 seen or emergency circumstances: *Provided further*, That
 10 the President may reallocate funds provided under this
 11 heading: *Provided further*, That these funds may be trans-
 12 ferred to any Federal account for any Federal Government
 13 activity to accomplish the purposes provided herein: *Pro-*
 14 *vided further*, That upon a determination that all or part
 15 of the funds so transferred from this appropriation are
 16 not necessary for the purposes provided herein, such
 17 amounts may be transferred back to this appropriation:
 18 *Provided further*, That contributions of funds for the pur-
 19 poses provided herein from any person, foreign govern-
 20 ment, or international organization, may be credited to
 21 this Fund and used for such purposes: *Provided further*,
 22 That funds appropriated under this heading or transferred
 23 or reallocated under provisions of this chapter or section
 24 632 of the Foreign Assistance Act of 1961 that are made
 25 available for assistance for Iraq shall be subject to notifi-

1 cations of the Committees on Appropriations, except that
 2 the notifications shall be transmitted at least 5 days in
 3 advance of the obligation of funds: *Provided further*, That
 4 the Coalition Provisional Authority shall work, in conjunc-
 5 tion with relevant Iraqi officials, to ensure that a new
 6 Iraqi constitution preserves full rights to religious freedom
 7 for all individuals, including a prohibition on laws that
 8 would criminalize blasphemy and apostasy: *Provided fur-*
 9 *ther*, That not later than 90 days after enactment of this
 10 Act and every 90 days thereafter until the ratification of
 11 a new Iraqi constitution, the President shall report to the
 12 appropriate Committees of the Congress, on efforts by the
 13 Coalition Provisional Authority and relevant Iraqi officials
 14 to ensure that the Iraqi constitution preserves religious
 15 freedom.

16 ECONOMIC SUPPORT FUND

17 For an additional amount for “Economic Support
 18 Fund”, \$422,000,000, to remain available until Sep-
 19 tember 30, 2005, for accelerated assistance for Afghani-
 20 stan: *Provided*, That these funds are available notwith-
 21 standing section 660 of the Foreign Assistance Act of
 22 1961, and section 620(q) of that Act or any comparable
 23 provision of law: *Provided further*, That these funds may
 24 be used for activities related to disarmament, demobiliza-
 25 tion, and reintegration of militia combatants, including

1 registration of such combatants, notwithstanding section
 2 531(e) of the Foreign Assistance Act of 1961: *Provided*
 3 *further*, That not to exceed \$200,000,000 appropriated
 4 under this heading in the Foreign Operations, Export Fi-
 5 nancing, and Related Programs Appropriations Act, 2004,
 6 may be used for the costs, as defined in section 502 of
 7 the Congressional Budget Act of 1974, of modifying direct
 8 loans and guarantees for Pakistan: *Provided further*, That
 9 amounts that are made available under the previous pro-
 10 viso for the cost of modifying direct loans and guarantees
 11 shall not be considered “assistance” for the purposes of
 12 provisions of law limiting assistance to a country.

13 UNITED STATES EMERGENCY FUND FOR COMPLEX
 14 FOREIGN CRISES

15 For necessary expenses to enable the President to re-
 16 spond to or prevent unforeseen complex foreign crises,
 17 \$100,000,000, to remain available until expended: *Pro-*
 18 *vided*, That funds appropriated under this heading may
 19 be made available only pursuant to a determination, after
 20 consultation with the Committees on Appropriations, by
 21 the President that it is in the national interest to furnish
 22 assistance on such terms and conditions as he may deter-
 23 mine for such purposes, including support for peace and
 24 humanitarian intervention operations: *Provided further*,
 25 That none of these funds shall be available to respond to

1 natural disasters: *Provided further*, That from these funds
2 the President may make allocations to Federal agencies
3 to carry out the authorities provided under this heading:
4 *Provided further*, That funds appropriated under this
5 heading shall be subject to the same conditions as those
6 contained under the same heading in chapter 5 of title
7 I of S. 762, as reported by the Committee on Appropria-
8 tions on April 1, 2003: *Provided further*, That the Presi-
9 dent may furnish assistance under this heading notwith-
10 standing any other provision of law: *Provided further*, That
11 the provisions of section 553 of Division E of Public Law
12 108–7, or any comparable provision of law enacted subse-
13 quent to the enactment of that Act, shall be applicable
14 to funds appropriated under this heading: *Provided fur-*
15 *ther*, That funds appropriated under this heading shall be
16 subject to the regular notification procedures of the Com-
17 mittees on Appropriations, except that notifications shall
18 be transmitted at least 5 days in advance of the obliga-
19 tions of funds: *Provided further*, That the requirements of
20 the previous proviso may be waived if failure to do so
21 would pose a substantial risk to human health and welfare:
22 *Provided further*, That in case of any such waiver, notifica-
23 tion to the Committees on Appropriations shall be pro-
24 vided as early as practicable, but in no event later than
25 3 days after taking the action to which such notification

1 requirement was applicable, in the context of such cir-
 2 cumstances necessitating such waiver: *Provided further*,
 3 That any notification provided pursuant to such waiver
 4 shall contain an explanation of the emergency cir-
 5 cumstances.

6 DEPARTMENT OF STATE

7 INTERNATIONAL NARCOTICS CONTROL AND LAW

8 ENFORCEMENT

9 For an additional amount for “International Nar-
 10 cotics Control and Law Enforcement”, \$120,000,000, to
 11 remain available until September 30, 2004, for accelerated
 12 assistance for Afghanistan.

13 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND

14 RELATED PROGRAMS

15 For an additional amount for “Nonproliferation,
 16 Anti-Terrorism, Demining and Related Programs”,
 17 \$35,000,000, for accelerated assistance for Afghanistan.

18 MILITARY ASSISTANCE

19 FUNDS APPROPRIATED TO THE PRESIDENT

20 FOREIGN MILITARY FINANCING PROGRAM

21 For an additional amount for the “Foreign Military
 22 Financing Program”, \$222,000,000, for accelerated as-
 23 sistance for Afghanistan.

1 PEACEKEEPING OPERATIONS

2 For an additional amount for “Peacekeeping Oper-
3 ations”, \$50,000,000, to support the global war on ter-
4 rorism.

5 CHAPTER 3

6 GENERAL PROVISIONS, THIS TITLE

7 SEC. 2301. In addition to transfer authority other-
8 wise provided in chapter 2 of this title, any appropriation
9 made available in chapter 2 of this title may be transferred
10 between such appropriations, to be available for the same
11 purposes and the same time as the appropriation to which
12 transferred: *Provided*, That the total amount transferred
13 pursuant to this section shall not exceed \$200,000,000:
14 *Provided further*, That the Secretary of State shall consult
15 with the Committees on Appropriations prior to exercising
16 the authority contained in this section: *Provided further*,
17 That funds made available pursuant to the authority of
18 this section shall be subject to the regular notification pro-
19 cedures of the Committees on Appropriations, except that
20 notification shall be transmitted at least 5 days in advance
21 of the obligation of funds.

22 SEC. 2302. Assistance or other financing under chap-
23 ter 2 of this title may be provided for Iraq, notwith-
24 standing any other provision of law: *Provided*, That funds
25 made available for Iraq pursuant to this authority shall

1 be subject to the regular reprogramming notification pro-
2 cedures of the Committees on Appropriations and section
3 634A of the Foreign Assistance Act of 1961, except that
4 notification shall be transmitted at least 5 days in advance
5 of obligation: *Provided further*, That the notification re-
6 quirements of this section may be waived if failure to do
7 so would pose a substantial risk to human health or wel-
8 fare: *Provided further*, That in case of any such waiver,
9 notification to the appropriate congressional committees
10 shall be provided as early as practicable, but in no event
11 later than 3 days after taking the action to which such
12 notification requirement was applicable, in the context of
13 circumstances necessitating such waiver: *Provided further*,
14 That any notification provided pursuant to such a waiver
15 shall contain an explanation of the emergency cir-
16 cumstances.

17 SEC. 2303. Funds made available in chapter 2 of this
18 title are made available notwithstanding section 10 of
19 Public Law 91–672 and section 15 of the State Depart-
20 ment Basic Authorities Act of 1956, as amended.

21 SEC. 2304. Section 1503 of Public Law 108–11 is
22 amended by, in the last proviso, striking “2004” and in-
23 serting in lieu thereof “2005”.

24 SEC. 2305. Section 1504 of Public Law 108–11 is
25 amended by—

1 (1) in the first proviso, striking “Iraqi military
2 or police force” and inserting in lieu thereof “Iraqi
3 military, private security force, other official security
4 forces, police force, or forces from other countries in
5 Iraq supporting United States efforts in Iraq”; and

6 (2) in the last proviso, striking “2004” and in-
7 serting in lieu thereof “2005”.

8 SEC. 2306. Public Law 107–57 is amended—

9 (1) in section 1(b), by striking “2003” wherever
10 appearing (including in the caption), and inserting
11 in lieu thereof “2004”;

12 (2) in section 3(2), by striking “Foreign Oper-
13 ations, Export Financing, and Related Programs
14 Appropriations Act, 2002, as is” and inserting in
15 lieu thereof “annual foreign operations, export fi-
16 nancing, and related programs appropriations Acts
17 for fiscal years 2002, 2003, and 2004, as are”; and

18 (3) in section 6, by striking “2003” and insert-
19 ing in lieu thereof “2004”.

20 SEC. 2307. Notwithstanding any other provision of
21 law, the Overseas Private Investment Corporation is au-
22 thorized to undertake any program authorized by title IV
23 of the Foreign Assistance Act of 1961 in Iraq.

24 SEC. 2308. Funds appropriated by chapter 2 of this
25 title under the headings “Economic Support Fund”,

1 “International Narcotics Control and Law Enforcement”,
2 Peacekeeping Operations”, and “Foreign Military Financ-
3 ing Program” shall be subject to the regular notification
4 procedures of the Committees on Appropriations.

5 SEC. 2309. (a) The Coalition Provisional Authority
6 (CPA) shall, on a monthly basis, submit a report to the
7 Committees on Appropriations which details, for the pre-
8 ceding month, Iraqi oil production and oil revenues, and
9 uses of such revenues.

10 (b) The first report required by subsection (a) shall
11 be submitted not later than 30 days after enactment of
12 this Act.

13 (c) The reports required by this section shall also be
14 made publicly available, including through the CPA’s
15 Internet website.

16 SEC. 2310. None of the funds made available by this
17 Act or any unexpended funds provided in Public Law 108–
18 11 may be made available to pay any costs associated with
19 debts incurred by the former government of Saddam Hus-
20 sein.

21 SEC. 2311. Title III of Public Law 107–327 is
22 amended as follows by inserting the following new section:

23 **“SEC. 304. REPORTS.**

24 “The Secretary of State shall submit reports to the
25 Committees on Foreign Relations and Appropriations of

1 the Senate, and the Committees on International Rela-
 2 tions and Appropriations of the House of Representatives
 3 on progress made in accomplishing the ‘Purposes of As-
 4 sistance’ set forth in section 102 of this Act utilizing as-
 5 sistance provided by the United States for Afghanistan.
 6 The first report shall be submitted no later than December
 7 31, 2003, and subsequent reports shall be submitted in
 8 conjunction with reports required under section 303 of
 9 this title and thereafter through December 31, 2004.”.

10 SEC. 2312. (a) NEW OFFENSE.—

11 (1) IN GENERAL.—Chapter 47 of title 18, 5
 12 United States Code, is amended by adding at the
 13 end the following:

14 **“SEC. 1037. WAR PROFITEERING AND FRAUD RELATING TO**
 15 **MILITARY ACTION, RELIEF, AND RECON-**
 16 **STRUCTION EFFORTS IN IRAQ.**

17 “(a) Whoever, in any matter involving a contract or
 18 the provision of goods or services, directly or indirectly,
 19 in connection with the war, military action, or relief or
 20 reconstruction activities in Iraq, knowingly and willfully—

21 “(1) executes or attempts to execute a scheme
 22 or artifice to defraud the United States or Iraq;

23 “(2) falsifies, conceals, or covers up by any
 24 trick, scheme or device a material fact;

1 “(3) makes any materially false, fictitious, or
2 fraudulent statements or representations, or makes
3 or uses any materially false writing or document
4 knowing the same to contain any materially false,
5 fictitious, or fraudulent statement or entry; or

6 “(4) materially overvalues any good or service
7 with the specific intent to excessively profit from the
8 war, military action, or relief or reconstruction ac-
9 tivities in Iraq;

10 “shall be fined not more than \$1,000,000 or imprisoned
11 not more than 20 years, or both. In lieu of a fine otherwise
12 authorized by this section, a defendant who derives profits
13 or other proceeds from an offense under this section may
14 be fined not more than twice the gross profits or other
15 proceeds.

16 “(b) EXTRATERRITORIAL JURISDICTION.—There is
17 extraterritorial Federal jurisdiction over an offense under
18 this section.

19 “(c) VENUE.—A prosecution for an offense under
20 this section may be brought—

21 “(1) as authorized by Chapter 211 of Title 18;

22 “(2) in any district where any act in further-
23 ance of the offense took place; or

24 “(3) in any district where any party to the con-
25 tract or provider of goods or services is located.”.

1 (2) CHAPTER ANALYSIS.—The chapter analysis
 2 for chapter 47 of title 18, United States Code, is
 3 amended by inserting at the end the following:

“1037. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq.”

4 (b) FORFEITURE.—Section 981(a)(1)(C) of title 18,
 5 United States Code, is amended by inserting after
 6 “1032,” the following: “1037,”.

7 (c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of
 8 title 18, United States Code, is amended by inserting be-
 9 fore “, section 1111” the following: “, section 1037 War
 10 Profiteering and Fraud Relating to Military Action, Re-
 11 lief, and Reconstruction Efforts in Iraq)”.

12 (3) EXPIRATION OF AUTHORITIES.—The au-
 13 thorities contained in this amendment shall expire
 14 upon the date that major combat operations in Iraq
 15 cease and desist, the Coalition Provisional Authority
 16 transfers responsibility for governing Iraq to an in-
 17 digenous Iraqi government, and a U.S. mission to
 18 Iraq, under the direction and guidance of the Sec-
 19 retary of State, is responsible for U.S. assistance ef-
 20 forts in Iraq.

21 TITLE III—GENERAL PROVISION, THIS ACT

22 SEC. 3001. The amounts provided in this Act are des-
 23 ignated by the Congress as an emergency requirement

1 pursuant to section 502 of H. Con. Res. 95 (108th Con-
2 gress).

3 This Act may be cited as the “Emergency Supple-
4 mental Appropriations for Iraq and Afghanistan Security
5 and Reconstruction Act, 2004”.

Calendar No. 296

108TH CONGRESS
1ST SESSION

S. 1689

A BILL

Making emergency supplemental appropriations for
Iraq and Afghanistan security and reconstruction
for the fiscal year ending September 30, 2004,
and for other purposes.

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2003

Read twice and placed on the calendar