

Report for Congress

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Supplemental Appropriations FY2003: Iraq Conflict, Afghanistan, Global War on Terrorism, and Homeland Security

Updated April 18, 2003

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Supplemental Appropriations FY2003: Iraq Conflict, Afghanistan, Global War on Terrorism, and Homeland Security

Summary

On March 25, 2003, President Bush requested \$74.8 billion in the FY2003 Emergency Supplemental for ongoing military operations in Iraq, postwar occupation, reconstruction and relief in Iraq, international assistance to countries contributing to the war in Iraq or the global war on terrorism, the cost of the continued U.S. presence in Afghanistan, and additional homeland security.

On April 12, 2003, the House and Senate passed the conference version of the FY2003 supplemental (H.R. 1559/H.Rept. 108-76/P.L. 108-11). It includes \$78.49 billion, \$3.7 billion more than requested by the President. Additions made by Congress include \$3.1 billion for assistance to the airlines, \$749 million more for homeland security programs, and \$369 million in food aid for Iraq and other countries.

The Administration asked Congress to approve funding that would be lodged in several large emergency funds where agencies could determine the actual allocation of funds to particular purposes or specific countries. The conference version distributes most of these funds to regular appropriations accounts and generally requires additional notifications to Congress of transfers in cases where the Administration is given additional flexibility.

The largest fund proposed was \$59.9 billion for the DOD's Defense Emergency Response Fund that would cover the costs associated with the war in Iraq, the continued U.S. presence in Afghanistan, enhanced security at U.S. military bases, and postwar occupation in Iraq. The conference includes \$15.7 billion in a new Iraq Freedom Fund but distributes the remaining funds to specific accounts.

Congress further provides \$2.475 billion for an Iraq Relief and Reconstruction that will fall under the authorities of regular foreign assistance programs usually managed by the State Department and the U.S. Agency for International Development (USAID). H.R. 1559, however, extends considerable flexibility to the President, allowing him to directly apportion funds to several federal agencies, including the Defense Department. The FY2003 Emergency Supplemental also includes \$4.7 billion in international assistance for about 22 countries which have contributed in some fashion to the war in Iraq or the global war on terrorism. This includes substantial increases in current aid levels for Israel, Egypt, Jordan, Afghanistan, Pakistan, and Turkey. Israel, Egypt and Turkey would also receive U.S. government guaranteed loans.

The Administration also requested that substantial appropriations be provided en bloc for homeland security, including \$2 billion for the Department of Homeland Security (DHS) for grants to states and enhancements of security, and \$500 million for a DHS Counterterrorism Fund for investigations and operations. The conference provides \$749 million more for homeland security but allocates funds to specific appropriation accounts.

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Supplemental Appropriations FY2003: Iraq Conflict, Afghanistan, Global War on Terrorism, and Homeland Security

Most Recent Developments

On April 12, the House and Senate approved the conference version of the FY2003 Supplemental (H.R. 1559/H.Rept. 108-76) providing \$78.49 billion to cover the costs of military operations in Iraq, relief and reconstruction of Iraq, ongoing U.S. costs in Afghanistan, additional aid to coalition partners and nations cooperating in the global war on terrorism, and homeland security. This total is \$3.74 billion more than the request and roughly \$500 million more than the \$77.93 billion passed by the House and the \$77.95 billion passed by the Senate. The conference version includes a \$3.1 billion airline industry relief package that was not requested by the President.¹ President Bush signed the legislation on April 18 (P.L. 108-11).

Reflecting Congressional priorities, the conference version of the bill includes additional funding for homeland security programs, such as customs and border protection and baggage and passenger screening. H.R. 1559 further includes \$700 million for protecting high-threat urban areas, up substantially from \$50 million requested by the Administration. The Emergency Supplemental also provides \$2.23 billion for first responders, about 10% higher than requested.

On international assistance issues, the conference version generally provides amounts proposed, but adds \$369 million for food aid for Iraq and elsewhere, and drops \$150 million for a Presidential crisis fund. The \$2.475 billion Iraq Relief and Reconstruction Fund will follow the authorities of regular foreign aid programs that are usually managed by the Department of State and the U.S. Agency for International Development (USAID). Nevertheless, Congress agreed to the President's request for broad discretion in the allocation of Iraq reconstruction money that allows direct apportionment to several Federal agencies, including DOD.

For defense spending, H.R. 1559, as enacted, funds the \$62.6 billion requested by the Administration but appropriates all but \$15.7 billion in regular appropriations accounts rather than providing \$59.9 billion, as requested, in the Defense Emergency

¹ See *Congressional Record*, April 12, 2003, p. H3400 for tables showing total costs. These totals include only direct appropriations for airline industry relief and do not include the cost of suspending airline security service fees and extending unemployment benefits to eligible airline employees. These elements do not require an appropriation but will result in the loss of revenue from fee collections and higher unemployment benefit costs. As estimated by CBO, the inclusion of these additional airline-related costs push the supplemental total up to \$79.19 billion, as enacted, and \$78.98 billion as passed by the Senate.

Response Fund to be spent at DOD's discretion. Instead, Congress appropriated \$15.7 billion in a new Iraq Freedom Fund, where DOD will have spending flexibility as long as it stays within several ceilings and floors and provides 5-day advance notifications of transfers. Congress also increased combat pay and separation allowances for U.S. forces, costing an estimated \$650 million.

This report has been substantially updated, except in the defense section, to reflect changes made in the conference agreement. Further additions to the defense section will be included in the next update.

Supplemental Overview

Within days of the initiation of U.S. military operations in Iraq, President Bush sent Congress a \$74.75 billion supplemental package largely divided into three parts – defense, Iraq reconstruction and foreign aid, and homeland security, as shown in Table 1.

Table 1. Emergency Iraq War Supplemental Summary
(\$s billions)

	Request	House	Senate	Enacted
Dept of Defense	\$62.587	\$62.464	\$62.558	\$62.583
Iraq reconstruction and international assistance	\$7.791	\$7.983	\$8.451	\$8.179
Homeland Security	\$4.375	\$4.290	\$5.144	\$5.124
Aviation industry relief ^a	–	\$3.178 ^a	[\$3.505] ^a	[\$3.091] ^a
Other	–	\$0.016	\$0.321	\$0.208
TOTAL Emergency Supplemental	\$74.753	\$77.931	\$77.947^a	\$78.488^a

Sources: House and Senate Appropriations Committees and Congressional Budget Office.

^a The aviation industry relief initiative, as structured in H.R. 1559, as passed by the House, provided \$3.178 billion in grants to be made by TSA to U.S. flag air carriers. S. 762, as passed the Senate, provided a combination of direct appropriations and changes in fees and unemployment benefits for airline workers that do not require direct appropriations. The enacted version of H.R. 1559 follows the Senate framework of direct appropriations and other items, although at different levels. Amounts shown in brackets for the Senate and enacted levels represent CBO estimates that include both direct appropriations and the costs of fee changes and unemployment benefits. Total Emergency Supplemental amounts include only direct appropriations and exclude the non-appropriated costs of the airline industry package. If the airline assistance total is added to the appropriated amounts, the size of the Emergency Supplemental, as estimated by CBO, is \$78.98 billion (as passed the Senate) and \$79.19 billion (as enacted).

Congressional Action on Administration Request. As passed on April 3 in both bodies, the bills were at (Senate) or just below (House) the request for defense. Both bills increased appropriations for Iraq reconstruction and other foreign aid – the House slightly, to \$7.98 billion, and the Senate more significantly, to \$8.45 billion, mainly due to a \$600 million amendment for additional food aid for Iraq. For homeland security, the House measure was slightly below the President's request,

mainly because of the denial of funding for the White House's proposed emergency fund, while the Senate increased homeland security by about \$770 million to \$5.14 billion. H.R. 1559 provided \$3.2 billion for airline industry relief while S. 762 included an estimated \$3.5 billion.²

As requested, the conference version of the bill provides \$62.58 billion for defense but, as recommended by appropriators in both houses, the enacted legislation reduces the flexibility in using those funds that was requested by the Administration. As passed, H.R. 1559 appropriates most of the funds to regular appropriations accounts. However, it also sets up a new \$15.7 billion Iraq Freedom Fund to give DOD additional flexibility. Within the new fund established for Iraqi Relief and Reconstruction, the conference bill appropriates funds to the President, giving him the flexibility to allocate those funds to various agencies, including the Department of Defense. In response to Administration concerns, the conference version eliminated restrictions that would have prevented DOD from administering any of these funds. The enacted appropriation, however, provides that the funds are to be designated as bilateral economic assistance and spent consistent with the Foreign Assistance Act of 1961.³

For homeland security, the conference version provides \$5.12 billion, \$749 million more than requested. For airline relief, the final bill provides for a \$3.1 billion package, including direct appropriations, authority to extend by 26 weeks unemployment compensation for displaced workers, and a temporary suspension of certain passenger and air carrier security fees from June 1 to September 30, 2003.⁴

While details of each of these components are discussed below, one overriding theme that was apparent throughout the supplemental package was the President's desire for the maximum degree of flexibility in managing and allocating these resources. Under the proposal, most of the funds would have been placed in emergency response funds which the President, the Secretaries of Defense, Justice, and Homeland Security could draw upon. Purposes for which the resources would be used were justified in general terms, but extensive discretion would have been allotted to executive officials. Among the proposed emergency funds were:

- Defense Emergency Response Fund – \$59.9 billion
- Iraq Relief and Reconstruction Fund – \$2.4 billion
- Department of Homeland Security Counterterrorism Fund – \$1.5 billion
- Department of Justice Counterterrorism Fund – \$500 million
- Executive Office of the President Emergency Response Fund – \$250 million
- Legislative Branch Emergency Response Fund – \$125 million.

² See footnote in Table 1, above, regarding costs of the airline industry relief package. These estimates are based on those issued by the Congressional Budget Office.

³ H.Rept. 108-76, p. 15 and p. 70-72.

⁴ Airline relief funding costs are based on CBO estimates that include both direct appropriations and the costs of fee changes and unemployment benefits extension.

Administration officials argued that such flexibility was needed due to constantly changing circumstances in and around Iraq and uncertainty over the duration and magnitude of the military campaign, the demands posed for near-term humanitarian relief, and longer-term reconstruction of the country, and the ongoing “global war on terrorism.”

In the enacted legislation, reflecting both House and Senate action, funds are generally directed for more specific purposes than proposed by the White House. The Iraqi Relief and Reconstruction Fund is the exception where Congress gives the President flexibility to allocate funds to five federal agencies, including the Department of Defense. Previous versions of the supplemental appropriation, as passed by the House and the Senate, would have limited the President’s ability to apportion the funds directly to DOD, and required that Fund be managed by the State Department and the U.S. Agency for International Development (USAID).

For defense, the conference version allocates much of the \$59.9 billion requested by the Department of Defense in the Defense Emergency Response Fund to regular appropriations accounts, reserving \$15.7 billion in a new Iraq Freedom Response Fund to be allocated by the President subject to various ceilings and floors set in the bill.

H.R. 1559 substitutes the President’s request for two Department of Homeland Security Funds totaling \$3.5 billion with specific allocations for port security, state and local government law enforcement, and National Guard reimbursements, checked baggage explosive detection systems at airports, among others. The conference report also allocates most of these funds to specific accounts.

The enacted supplemental also distributes nearly all of the \$500 million proposed Justice Department Counterterrorism Fund among several activities, allocating a portion for FEMA disaster relief. H.R. 1559 further requires advance notification of how the money will be spent and directs the Administration to reimburse foreign aid accounts that have previously been drawn upon to fund pre-conflict needs in Iraq.

Amendments During Floor Debate. During floor debate, lawmakers considered amendments affecting each of the three main areas of the President’s supplemental request. Defense-related proposals that were adopted included:

- Stevens amendment to increase combat pay (\$650 million estimated cost) – adopted by voice vote and included in the conference agreement.
- Allard amendment to create a panel to examine claims of sexual misconduct at the Air Force Academy – adopted by voice vote and included, with modifications, in the enacted legislation.
- Within Stevens amendment (S.Amdt. 522), a section that would prohibit contracts for military airlift services to any carrier that is

“not effectively controlled by citizens of the United States.”⁵ The amendment, with modifications, remained in the enacted legislation.

The Senate also rejected an amendment by Senator Landrieu that would have added \$1.05 billion for National Guard and Reserves procurement (tabled 52-47).

House and Senate amendments regarding Iraq reconstruction and international assistance focused generally on efforts to add humanitarian resources for Iraq, cut aid to Turkey and Colombia, and restrict eligibility of reconstruction contractors. The Senate approved an amendment by Senator Kohl adding \$600 million for PL480 title II food assistance programs, including a requirement that \$155 million be used to reimburse food accounts from which resources had been previously taken for Iraq. H.R. 1559 provides \$250 million for these same purposes. The enacted bill provides \$369 million for food assistance. The House defeated three amendments cutting international assistance:

- Cunningham amendment to delete \$1 billion in aid to Turkey. (defeated 110-315).
- DeFazio amendment to cut aid to Turkey by \$207 million, transferring the funds to establish National Guard Weapons of Mass Destruction Civil Support Teams (defeated 113-312).
- McGovern amendment eliminating \$61 million in counter narcotics funds for Colombia and increasing appropriations for the Office of Domestic Preparedness (defeated 209-216).

On aid contracting and related issues, the House approved (voice vote) a proposal by Congressman Kennedy (MN) that prohibits the use of funds for Iraq reconstruction to purchase goods or services produced by France, Germany, Russia, or Syria, although U.S. subsidiaries of companies organized in those countries would be eligible. Two Senate amendments related to this issue were withdrawn:

- Ensign amendment to prohibit reconstruction funds in a way that would benefit businesses and citizens of France and Germany unless physically located in the U.S.
- Landrieu/Mikulski amendment to require that American flag commercial ships be used to transport U.S. assistance.

H.R. 1559, as enacted, however, deleted the House-passed Kennedy amendment.

Most amendments considered in both houses focused on increased spending for homeland security purposes. The Senate adopted a modified proposal by Senator Bayh adding \$105 million for grants to States for smallpox and other bioterrorism inoculation programs. Originally, the amendment would have provided \$340 million. The conference version of H.R. 1559 includes \$100 million for such inoculation programs. The Senate further agreed to an amendment by Senator Specter (65-32) adding \$200 million to the Office for Domestic Preparedness (ODP) and rearranging ODP funds so that resources for high-threat urban areas would grow

⁵ S.Amdt. 522 in *Congressional Record*, April 3, 2003, Part II, p. S 4868.

from \$100 million, as reported in S. 762, to \$600 million. H.R. 1559, as approved, raises this total to \$700 million. The Senate also adopted an omnibus amendment by Senator Stevens that included provisions increasing homeland security by about \$150 million, mainly for DOE nuclear security programs. Conferees generally supported these DOE activities. But the House and Senate rejected several other efforts to add to the President's request for homeland security:

- Senator Hollings amendment to add about \$1 billion for port security – tabled 52-47.
- Senator Breaux amendment to add about \$2.67 billion for various homeland security programs – tabled 52-46.
- Senator Schumer amendment to increase ODP funding by \$2.33 billion – tabled 51-46.
- Senator Boxer amendment to earmark \$30 million for R&D and deployment of technology to protect commercial airliners from man-portable defense systems – tabled 50-47.
- Congressman Obey amendment to add \$2.5 billion for homeland security – ruled out of order.
- Congressman Nadler amendment to increase port security funds by \$15 billion – ruled out of order.

The Senate also rejected an amendment by Senators Byrd and Hollings that would not have increased homeland security spending, but would have allocated resources to specific accounts rather than leaving the Secretary of Homeland Security with broad discretion.

The Administration generally supported actions by the House and Senate, but raised objections in a few areas, largely related to executive flexibility matters. The White House suggested that Senate language allocating defense funds to specific accounts might “slow timely and effecting funding of urgent needs.” The Administration raised the same concern regarding House text that allocated homeland security resources to specific activities rather than placing the money in a central fund. This, the White House claimed, would “hinder” the Homeland Department’s Secretary in applying the funds to the most critical threats. The executive further expressed concerns about the House bill which directed that Iraq Relief and Reconstruction Fund resources be managed by the State Department and the U.S. Agency for International Development (USAID), removing Presidential flexibility over involving multiple agencies in reconstruction operations. Finally, the White House considered the airline industry relief packages in both bills “excessive.”⁶

Details concerning each of the supplemental’s major components are discussed below.

⁶ Executive Office of the President, Office of Management and Budget. Statement of Administration Policy on the Emergency Supplemental Appropriations, FY2003. April 2, 2003.

Administration Request for the Department of Defense

The Administration is requesting \$62.6 billion for the Department of Defense (DOD) for the cost of the war in Iraq, continued U.S. operations in Afghanistan and the global war on terrorism, and enhanced security at military bases in the United States. The DOD FY2003 supplemental request funds the deployment and redeployment of U.S. forces and equipment to the Persian Gulf and the prosecution of a short, intense conflict. In addition, the request includes funding for an occupation force in Iraq for the remainder of FY2003, repair and re-stocking of military equipment and munitions, as well as a small amount of funding for humanitarian assistance, to conduct firefighting and restore and repair Iraqi oil fields, and classified activities.⁷

Although the amount is not specified, DOD's request also includes funds to cover the cost of U.S. forces remaining in Afghanistan (Operation Enduring Freedom) as well as the cost of enhanced security in the United States (Operation Noble Eagle) for the remainder of the fiscal year.⁸ DOD received \$6.1 billion for its first quarter expenses for these missions in FY2003 for these missions in the FY2003 Consolidated Appropriations Resolution (P.L. 108-7/H.J.Res. 2).⁹ Expenses for the remainder of the FY2003 are expected to be about \$6 billion because DOD has pared down costs.

The Department of Defense is requesting that \$59.9 billion, 96 percent of its total, be appropriated to the Defense Emergency Response Fund (DERF), a transfer account, where DOD can exercise discretion in spending the money for purposes that it considers appropriate and move funds into the relevant appropriation accounts. Although DOD's proposed language would require quarterly reports to Congress about the allocation of *actual* expenditures, some Members of Congress have expressed concerns about the extent of flexibility that DOD would have in allocating almost \$60 billion. The remaining \$2.6 billion in DOD funding is being requested in regular appropriations accounts for specific purposes and projects.

To give DOD flexibility to develop and exploit cooperative military relationships with other nations in the global war on terrorism, the Defense Department is also requesting \$150 million to support indigenous or irregular forces

⁷ Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003; see [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf .]

⁸ Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003; see [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf .] and Senior Defense Official, *Background Briefing on Budget Supplemental*, March 24, 2003; see [http://www.defenselink.mil/news/Mar2003/t03252003_t0324bgd.html].

⁹ See Division M, P.L. 108-7.

and \$50 million to support the regular forces of foreign nations working with the United States in the global war on terrorism. The request also proposes to raise current statutory limits on the amount of funds that can be used at the discretion of the Secretary of Defense and combatant commanders for unanticipated military requirements including support for foreign military forces. DOD again cites the war in Iraq and the global war on terrorism as the rationale for these changes. These proposals could be controversial. The request also proposes a major increase from \$2 billion to about \$9 billion in the total amount of funding that DOD can transfer between appropriations after notifying the appropriations committees.¹⁰

In remarks at the Pentagon, President Bush characterized the FY2003 supplemental as urgent, and DOD officials have called for quick passage to ensure that DOD does not face shortages in operating expenses. DOD has characterized \$30.3 billion of its \$62.6 billion request as incurred costs for the buildup phase of the Iraqi war including expenses such as transportation of equipment and personnel both to and from the theater of operations.¹¹ Although DOD may be obligated for these costs, some of these expenses, which DOD is currently paying for using regular FY2003 appropriations, will be incurred in the months ahead.

Potential Issues in the DOD Request

Potential issues in the DOD request that may arise during congressional consideration of the FY2003 Supplemental include:

- The limited congressional oversight of the \$59.9 billion requested by DOD in the Defense Emergency Response Account (DERF);¹²
- The flexibility requested by DOD to provide funds to foreign military forces who cooperate in combating terrorism;
- The extent and definition of DOD's postwar role in Iraq;
- The adequacy of funding in the request in light of current developments in the Iraqi war; and
- The long-term cost implications of the war.

Further details on the Administration's request are in the section entitled DOD's Funding Request by Appropriation Account.

¹⁰ See OMB, Transmittal to Speaker of the House, J. Dennis Hastert, FY2003 Supplemental Appropriations Request, March 25, 2003, general provisions; see estimate no. 4 on OMB web site: [http://www.whitehouse.gov/omb/budget/amendments/supplemental_3_25_03.pdf]

¹¹ DOD Press Release, "Supplemental Calls for \$62.6 billion for Defense," March 25, 2003; DOD Press Release, "Bush Calls Wartime Supplemental Budget Request 'Urgent'", March 26, 2003.

¹² See CRS General Distribution Memo, "Prior Administration Requests for Funding Flexibility in Financing Military Operations," April 3, 2003 by Stephen Daggett, available from author.

House and Senate Floor Action on the Department of Defense Request

During floor debate on the FY2003 Supplemental, the House did not adopt any amendments affecting the Department of Defense. The Senate unanimously adopted the Stevens-Durbin Amendment (S.Amdt. 436 as modified), which increased, retroactively to the beginning of FY2003, combat pay from \$150 a month to \$225 a month, and increased family separation allowances from \$100 a month to \$250 month. This change is anticipated to cost \$650 million for FY2003. The change is only in effect for FY2003.¹³ The Senate also adopted the Allard amendment (S.Amdt. 451) establishing a seven-member panel to review and report to the Secretary of Defense and the armed services committees within 90 days about the effectiveness of policy and actions taken at the Air Force Academy in response to allegations about sexual assaults.¹⁴

A more controversial Senate amendment that was adopted was the Stevens amendment “to make certain improvements” (SA 522) included a provision that would prohibit any funding in the bill going to airlift contracts to any firm that is not U.S. controlled.¹⁵ A sense of the senate amendment offered by Senator Hollings (SA 479) that would require the President to submit a proposal to raise revenues to pay for the cost of the FY2003 supplemental was rejected (79 to 18).¹⁶

Both the House and the Senate supported the funding requested by the Administration but provided different ways to increase Congressional oversight about the allocation of those funds (see discussion below).

House and Senate Markup of the Department of Defense Request

Total Funding Recommended. In markup of the FY2003 Supplemental, the House Appropriations Committee recommended appropriations totaling \$62.464 billion and the Senate Appropriations Committee (SAC) recommended the \$62.559 billion, both close to the \$62.587 billion requested by the Administration. Both committees used different approaches to allocate or reserve funds to different accounts rather than providing the bulk of the funds in the Defense Emergency Response Fund as requested by the Administration. In some cases, the appropriators also added notification requirements before obligation of funds or reporting requirements after funds are spent (see below).

Compared to the Administration’s request for flexibility in the use of \$59.9 billion of funds in the DERF, the House version would give flexibility in the use of

¹³ *Congressional Record*, April 2, 2003, p. S4662 and p. S4676.

¹⁴ *Congressional Record*, April 2, 2003, p. S4719 and p.4697.

¹⁵ BNA, Daily Executive, “‘Extraneous’ Add-ons Slow Conferees’ Work On Finalizing \$80 Billion ‘War’ Supplemental

¹⁶ *Congressional Record*, April 3, 2003, p. S4781-p. S4785.

\$25.4 billion as long as DOD stayed within certain ceilings while the Senate distributed all but \$11.0 billion of the funds in the DERF to specific appropriation accounts. At the same time, the House version required a seven-day advance notification for transfers from the new fund while the Senate permitted DOD to allocate those funds with quarterly after-the-fact reporting as proposed by the Administration.

Proposed Changes to Funding Requested in the Defense Emergency Response Fund. Both the House and the Senate appropriators placed additional restrictions on the Administration's request for \$59.9 billion in the Defense Emergency Response Fund account using different mechanisms.

House Appropriations Committee (HAC) Approach. House appropriators established a new Operation Iraqi Freedom Response Fund totaling \$59.7 billion. Within that fund, the HAC allocated funds by:

- setting *ceilings* on DOD's subsequent transfers to various appropriations accounts that covered \$34.3 billion;
- appropriating \$2.6 billion into specific accounts; and
- setting up a third category for \$25.4 billion for the later stages of the war where DOD would have flexibility to allocate funds as long as it stayed within various floors and ceilings set in the bill.

Within the \$34.3 billion where the HAC set transfer limits, DOD could spend less than or equal to the ceilings for appropriation accounts outlined in the bill. (See **Table 2**, **Table 2a**, and **Table 2b** below).¹⁷ The House appropriators allocated \$1.7 billion more than the Administration requested for Military Personnel accounts based on their belief that the services would need additional amounts to cover such expenses as imminent danger pay, family separation allowances and the cost of mobilizing reservists.¹⁸

Within the new Operation Iraqi Freedom Response Fund, the HAC set aside \$25.4 billion that would be available for "Combat, Stability Operations, and Force Reconstitution costs," a new category included in the bill, and required 7-day advance notification to Congress of DOD's transfers of these funds to individual appropriation accounts. This category appears to cover costs that would occur later in the war or during an occupation phase.

Within this category, the House appropriators set aside in reserve \$4 billion that DOD could not spend until July 1, 2003, that is to be made available for additional Military Personnel or Defense Health costs in 2003. The HAC also set *ceilings* on the totals for Operation and Maintenance, Procurement, RDT&E accounts, and \$400 million for DOD to transfer to the Department of Homeland Security for Coast Guard operating expenses. The HAC also set a *floor* of \$1.8 billion for classified programs. For transfers to procurement accounts, the House appropriators requires 30-day advance notification (see **Table 2a** below). The House also directed that of the \$4.2

¹⁷ See H.R. 1559 as passed by the House and H.Rept. 108-55, p.7 - p.23

¹⁸ H.Rept. 108-55, p. 15-p.16.

billion ceiling on procurement, up to \$3.2 billion would be available to replenish munitions and equipment used for military operations in or around Iraq.¹⁹

The total funding for all the ceilings and floors set in the bill is \$30.7 billion, over \$5 billion more than the \$25.4 billion reserved for Combat, Stability Operations, and Force Reconstitution Costs. For that reason, DOD will have to fund some accounts below the ceilings set in the bill (see **Table 2a** below.)

Senate Appropriations Committee (SAC) Approach. The Senate Appropriators reduced the Administration's \$59.9 billion request for the Defense Emergency Response Fund to \$11 billion, transferring the remaining \$51.2 billion to other specific appropriations accounts. Based on discussions with DOD, the SAC transferred funds that DOD characterized as incurred costs, for example for deployment of troops and equipment or setting up base camps (see **Table 2** and **Table 2a** below) as well as other funds where expenses could be more predictable.²⁰

Both House and Senate appropriators provided amounts requested by the Administration for counter drug activities in Colombia (\$34 million) and for reimbursement for drawdown in its funds and stocks for the Afghan Army.

For procurement, the Administration's request can only be broken out at the service level rather than by individual accounts. For that reason, **Table 2a** compares Congressional action for procurement by service. The House and Senate bills appear to distribute some of the \$3.7 billion requested by the Administration for munitions and equipment replenishment in Procurement, Defensewide to individual services.

¹⁹ H.R. 1559, p. 15 and H.Rept. 108-55, p. 13 - p. 21.

²⁰ See S. 762 as reported and S.Rept. 108-33, p. 7 - p.14.

Table 2. Comparison of Appropriation or Allocation of Defense Funds in FY2003 Supplemental: Request, House and Senate Bills as Passed
(in billions of dollars)

Appropriation Account or Allocation of Funds ^a	Administration Request ^a	House Passed (H.R. 1559) ^a	Senate Passed (H.R. 1559) ^a
Operation Iraqi Freedom Response Fund Total^a	0	59.683	0
Ceiling within Operation Iraqi Freedom Fund for Combat, Stability Operations, and Force Reconstitution Costs Subtotal ^a	0	25.436	0
Defense Emergency Response Fund (DERF) ^a	59.863	0	11.019
Military Personnel, Army	6.321	6.975	7.725
Military Personnel, Navy	1.384	1.984	1.784
Military Personnel, Marine Corps	1.355	1.205	1.255
Military Personnel, Air Force	1.335	1.835	2.835
Reserve Personnel, Army	0	0.003	0.006
National Guard Personnel, Army	0	0.093	0.110
Operation and Maintenance, Army	20.790	10.482	16.143
Operation and Maintenance, Navy	6.411	3.940	5.297
Operation and Maintenance, Marine Corps	3.744	1.384	1.753
Operation and Maintenance, Air Force	9.970	3.668	7.209
Operation and Maintenance, Defense-wide, Including ^b	3.652	2.769	4.674
<i>-Defense Health^b</i>	<i>0.302</i>	<i>0.302</i>	<i>0.502</i>
<i>-Coalition Support^b</i>	<i>1.565</i>	<i>1.400</i>	<i>1.400</i>
<i>-Reimbursement for Afghan Drawdown^b</i>	<i>0.165</i>	<i>0.165</i>	<i>0.165</i>
Drug Interdiction and Counter Drug Activities	0.034	0.034	0.034
Operation and Maintenance, Army National Guard	0	0.058	0.088
Operation and Maintenance, Navy Reserve	0	0	0.015
Operation and Maintenance, Marine Corps Reserve	0	0	0.050
Operation and Maintenance, Air National Guard	0	0	0.020

Appropriation Account or Allocation of Funds^a	Administration Request^a	House Passed (H.R. 1559)^a	Senate Passed (H.R. 1559)^a
Natural Resource Risk Remediation Fund	0.489	0.489	0.489
Aircraft Procurement, Army	<i>c</i>	0.004	0.004
Missile Procurement, Army	<i>c</i>	0.003	0.003
Procurement of Weapons and Tracked Combat Vehicles, Army	<i>c</i>	0.053	0.053
Procurement of Ammunition, Army	<i>c</i>	0.448	0.448
Other Procurement, Army	<i>c</i>	0.242	0.242
Marine Corps Procurement	<i>c</i>	0	0.000
Other Procurement, Air Force	<i>c</i>	0.114	0.114
Procurement, Defense-wide ^d	4.308	0.451	0.451
RDT&E, Army	0.015	0.012	0.012
RDT&E, Navy	0.031	0	0
RDT&E, Air Force	0.010	0	0
RDT&E, Defense-wide	0.000	0.090	0
Defense Working Capital Fund	0.430	1.100	0.550
Military Construction, Navy	0.048	0.048	0.048
Military Construction, Air Force	0.129	0.005	0.127
Family Housing O&M, Air Force	0.000	0.002	0.002
Defense Cooperation Account	0.028	0.028	0
TOTAL^c	62.587	62.464	62.559

Table 2a. FY2003 Supplemental: Procurement Totals with Classified by Service
(in billions of dollars)

Subtotal for Procurement Plus Classified by Service	Administration Request^a	House Ceilings (H.R. 1559)^a	Senate Passed By Account^a
Army	0.017	0.750	0.508
Navy	0.096	0.000	0.000
Marine Corps	0.030	0.000	0.000
Air Force	1.961	0.114	0.114
Defensewide Procurement	4.308	0.451	0.451

Table 2b. FY2003 Supplemental: Procurement Totals with Classified by Service
(in billions of dollars)

House's Ceilings and Floors within Combat, Stability Operations, and Force Reconstitution Costs^a	House Bill Ceilings (H.R. 1559)^a
Reserve for Military Personnel and Defense Health	4.000
Floor on Classified Programs	1.817
Ceiling on total Operation and Maintenance Funding Including: \$8 billion for Operation Enduring Freedom and Global War on Terrorism	20.214
Ceiling on Procurement Including \$3.249 billion for munitions and equipment expended in and around Iraq	4.242
Ceiling on RDT&E	0.057
Ceiling on Department of Homeland Security for: U.S. Coast Guard, Operating Expenses	0.400
TOTAL of Reserve, Ceilings and Floors	30.731
TOTAL for Combat, Stability Operations, and Force Reconstitution Costs	25.436

Sources: Department of Defense, FY2003 Supplemental Request for Military Operations in Iraq and the Global War on Terrorism, March 25, 2003; see [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraq_Freedom_Supplemental.pdf]; S. 762, Making Supplemental Appropriations to Support Department of Defense Operations in Iraq, Department of Homeland Security, and Related Efforts for the Fiscal Year Ending September 30, 2003 as passed by the Senate, April 3, 2003. H.R. 1559, Emergency Wartime Supplemental Appropriations Bill, FY2003 as passed by the House, April 3, 2003.

^a The Administration request appropriated \$59.9 billion of the funds for DOD to the Defense Emergency Response Fund. Allocations shown in this table for the Administration request are CRS calculations based on material from DOD. The House bill, H.R. 1559, appropriates \$59.7 billion to a newly established account, the Iraqi Freedom Response Fund; the bill then sets ceilings within that fund by appropriation account as shown in the column for the House bill. Within the Iraqi Freedom Response Fund, the House bill also sets an overall ceiling on the amount that can be allocated to Combat, Stability Operations, and Reconstitutions Costs, and requires 7-day advance notifications to Congress for transfers out of that category. The Senate bill provides funds in individual appropriations including \$11 billion in the Defense Emergency Response Fund.

^b Coalition Support, the Afghan draw down, and Defense Health are included within the O&M, Defense-wide account but shown separately as memo entries below. The House bill requires that DOD submit a plan for the \$1.4 billion in military and logistical support within 30 days of enactment or the funds will revert to the Treasury.

^c CRS could not allocate the Administration's procurement request below the service level; see **Table 2a** for totals by service. The Administration's procurement requests are included within the total.

^d In the Administration's request, Procurement, Defense-wide appears to include \$3.7 billion for munitions replenishment.

Support of Foreign Military Forces. Both the House and the Senate appropriators agreed to the Administration's request that \$1.4 billion be made available for military and logistical support to Pakistan, Jordan or other "key cooperating nations," in the war on terrorism but each house proposed different restrictions. In addition to quarterly reporting after use of funds, the HAC required a 7-day notification in advance and required that DOD provide a report within 30 days of enactment about their plans for using the funds or the funds would revert to the Treasury. The SAC required a 15-day advance notification for use of these funds.

Neither the House nor the Senate approved the Administration's request that the Secretary of the Defense be allowed to spend \$150 million to support irregular or indigenous forces. In the case of the Administration's request that the Secretary of Defense, with the concurrence of the Secretary of State, be allowed to spend \$50 million to support the regular forces of other nations who cooperate in the war on terrorism, the Senate approved the requested new authority with advance notification but the House did not include any provision for this funding.

As requested, appropriators in both houses gave the combatant commanders and the Secretary of Defense flexibility to use certain funds at their discretion. Both the HAC and the SAC recommended that the combatant commanders (CINCs) be allowed to double from \$25 million to \$50 million the amount that they could spend from the CINC Initiative Fund that could be used to support either U.S. or foreign military forces. The HAC and the SAC also agreed with the Administration's request to increase the amount available to the Secretary of Defense to spend at his discretion for emergency and extraordinary expenses; the House increased the ceiling from \$34.5 million to \$69.0 million as requested and the Senate agreed to raise the amount to \$45.0 million.

Use of Defense Cooperation Account and New Natural Resources Risk Remediation Account. In response to DOD's request to be able to use immediately any foreign contributions to the Defense Cooperation Account, originally set up to receive donations from foreign nations in the first Gulf War, both the HAC and the SAC set conditions on use of any such funds. The HAC required prior approval of any transfers from the fund to an appropriation account. The SAC did not change current statutory language, which requires that DOD cannot use any contributions unless included in subsequent appropriations acts.

Both the HAC and the SAC approved the new Natural Resources Risk Remediation Account, for which the Administration requested \$489 million to cover the cost of firefighting and repair of Iraqi oil wells (see below). For use of foreign contributions, the SAC agreed to allow DOD to use any contributions without restrictions. The HAC, however, required prior approval of any transfers of contributions.

Request for Higher Total on Transfers. In response to the Administration's request that the total amount that DOD can transfer annually between appropriations accounts be raised from \$2 billion to almost \$9 billion, the HAC left the current ceiling intact and the SAC proposed a cap of \$3.5 billion per year.

Table 3 shows the Administration's request and the amounts included in the House and Senate-passed versions of H.R. 1559 by appropriation account. This table does not reflect ceilings on subsequent transfers to appropriations accounts that are included in the House version of H.R. 1559 and shown in **Table 2** above.

Table 3. FY2003 Supplemental by Appropriation Account
(in billions of dollars)

Appropriation Account	Request	House	Senate
Military Personnel, Army	0.0	0.0	7.725
Military Personnel, Navy	0.0	0.0	1.784
Military Personnel, Marine Corps	0.0	0.0	1.255
Military Personnel, Air Force	0.0	0.0	2.835
Reserve Personnel, Army	0.0	0.0	0.006
National Guard Personnel, Army	0.0	0.0	0.110
Operation and Maintenance, Army	0.0	0.0	16.143
Operation and Maintenance, Navy	0.0	0.0	5.297
Operation and Maintenance, Marine Corps	0.0	0.0	1.753
Operation and Maintenance, Air Force	0.0	0.0	7.209
Operation and Maintenance, Defensewide ^a	1.400	1.400	4.008
Operation and Maintenance, Army National Guard	0.0	0.0	0.088
Operation and Maintenance, Navy Reserve	0.0	0.0	0.015
Operation and Maintenance, Marine Corps Reserve	0.0	0.0	0.050
Operation and Maintenance, Air National Guard	0.0	0.0	0.020
Natural Resource Risk Remediation Fund ^b	0.489	0.489	0.489
Defense Emergency Response Fund (DERF) ^c	59.863	0.000	11.019
Procurement, Air Force	0.0	0.0	0.004
Operation Iraqi Freedom Response Fund ^d	0.0	59.683	0.0
Missile Procurement, Army	0.0	0.0	0.003
Proc. of Weapons and Tracked Combat Vehicles, Army	0.0	0.0	0.053
Procurement of Ammunition, Army	0.0	0.0	0.448
Other Procurement, Army	0.0	0.0	0.242
Other Procurement, Air Force	0.0	0.0	0.114
Procurement, Defensewide	0.0	0.0	0.451
RDT&E, Army	0.0	0.0	0.012
Defense Working Capital Fund	0.430	1.100	0.550
Defense Health	0.0	0.0	0.502
Drug Interdiction and Counter Drug Activities	0.034	0.034	0.034
Reimbursement for Afghan Drawdown	0.165	0.165	0.165
Military Construction, Navy	0.048	0.048	0.048
Military Construction, Air Force	0.129	0.051	0.127
Family Housing O&M, Air Force	0.0	0.002	0.002
Defense Cooperation Account	0.028	0.028	0.000
TOTAL	62.587	62.464	62.559

Sources: Department of Defense, FY2003 Supplemental Request for Military Operations in Iraq and the Global War on terrorism, March 25, 2003; see www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf . H.R. 1559 as passed by the House and as passed by the Senate and S.Rept. 108-33, Report by Senate Appropriations Committee on S. 762, Making Supplemental Appropriations to Support Department of Defense Operations in Iraq, Department of Homeland Security, and Related Efforts for the Fiscal Year Ending September 30, 2003, and H.Rept. 108-55.

^a In House reported version, if DOD does not submit a newly-required report within 30 days of enactment of its plans to spend the \$1.4 billion in military and logistical support, the funds would revert to the Treasury.

^b In House bill, this fund may receive a transfer of \$489.3 million.

^c Language in Administration's DERF account request includes caps of \$3.7 billion for munitions replenishment and \$1.0 billion for procurement and RDT&E necessary for war with Iraq and global war on terrorism, and cap of \$50 million to support the military operations of foreign nations, and a floor of \$53.3 billion for military operations in Iraq and the global war on terrorism.

^c Within the Operation Iraqi Freedom Response Fund, DOD can transfer up to \$12.095 billion to Military personnel, \$20.737 billion to Operation and Maintenance, \$1.314 billion to Procurement, \$101 million to RDT&E accounts, and \$25.436 billion to Combat, Stability Operations, and Force Reconstitution Costs for subsequent transfer to individual appropriation accounts (see Table 2 for allocations of transfers).

DOD's Funding Request by Appropriation Account

To maximize flexibility, the Defense Department's FY2003 supplemental requests almost all of its \$62.6 billion in funding in the Defense Emergency Response Fund (DERF) transfer account (see **Table 3**). Although most of DOD's funding in the FY2002 supplemental for Afghanistan and enhanced security was also provided in the DERF transfer account - based on the same rationale that DOD needed flexibility in its efforts to combat terrorism after September 11th attacks - the \$11 billion in funding was substantially smaller than the current request.

Ceilings Within DERF Account. DOD is proposing language that would set ceilings and floors within the DERF account in the categories below:

- a cap of \$3.7 billion for munitions replenishment;
- a cap of \$1.0 billion for procurement and RDT&E necessary for war with Iraq and global war on terrorism;
- a cap of \$50 million to support the military operations of foreign nations; and
- a *floor* of \$53.346 billion for military operations in Iraq and the global war on terrorism.

It is not clear, however, how these caps (or floor) could be enforced because the categories are not defined.

According to DOD, the \$59.9 billion in the DERF appropriation account is intended to cover costs incurred in the war with Iraq - deployment of forces and equipment and re-deployment costs when they return, DOD's estimated costs of a "short but extremely intense" war, repair and replenishment of equipment and munitions damaged or used during the war, mobilization of reserve forces, and some

RDT&E, as well as other expenses for the war on terrorism.²¹ As in the FY2002 supplemental, DOD has provided illustrative allocations of DERF funds (see **Table 4** below). These allocations are not binding however.

Accountability Issues. Although support for U.S. forces in Iraq and Afghanistan is widespread, some Members of Congress may be reluctant to permit DOD the discretion to spend almost \$60 billion as it deems appropriate without more extensive congressional oversight. Congress may decide to include oversight mechanisms in addition to DOD's proposal for quarterly, after-the-fact reporting.

Alternatives to appropriating the entire amount in the DERF could include taking the spending that has already occurred or is more predictable out of the DERF and appropriating those funds in specific appropriations accounts for specific purposes. For example, some of the \$30.3 billion that DOD has described as incurred expenses might be removed from the DERF and placed in specific appropriation accounts. That possibly could include 1) transportation costs for equipment and personnel; 2) funding for expenses for Afghanistan and enhanced security at home for the remainder of the year where DOD has estimated costs based on recent experience; and 3) preparing and setting up bases overseas and consumables incurred to date. DOD's proposed RDT&E spending, where projects are specified in justification materials supporting the request list, could also be removed from the DERF as could procurement costs, though estimates of munitions and equipment losses could change with the cost of the war. This would reduce the amount of the request included in the DERF.

Another alternative would be to develop some kind of reporting mechanism *before the fact* with a waiting period, an approach that DOD proposes for military construction projects in the FY2003 supplemental following the precedent set in the FY2002 supplemental. This military construction provision requires that DOD inform the four congressional defense committees of the specific projects to be funded 15 days in advance of obligating funds.²²

Still another approach would be to set caps on certain types of expenses, an approach that was used in the FY 2001 Emergency Terrorism Response Fund, and require that DOD return to the Congress for transfers above those limits. That approach would require that the categories of expenses be clearly defined.

Members of Congress could also request more information about the assumptions underlying DOD's cost estimates for the war as well as DOD's postwar plans, including, for example, the size and duration of an occupation force or the

²¹ Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003, p. 2; [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf].

²² See OMB, Transmittal to Speaker of the House, J. Dennis Hastert, FY2003 Supplemental Appropriations Request, March 25, 2003, general provisions; see estimate no. 4 on OMB web site: [http://www.whitehouse.gov/omb/budget/amendments/supplemental_3_25_03.pdf]

number of reserves who will be activated over the next year, both areas where there has been considerable controversy.²³

Operation and Maintenance, Defense-Wide Funds Coalition Support. Continuing a practice begun in the FY2002 supplemental, DOD is requesting \$1.4 billion in the Operation and Maintenance, Defense wide account to fund coalition support. According to DOD, that support will include payments of \$1.3 billion to Pakistan, Jordan and countries providing logistical support to the U.S. in Afghanistan, and payments of \$.1 billion for logistical support to those supporting military operations in Iraq. The proposed language does not bind DOD to these amounts for these countries.

As in the FY2002 supplemental, the proposed language requires that the Secretary of Defense consult with the Director of OMB, and receive concurrence from the Secretary of State before providing funds to allies. The current proposal does not, however, include the 15-day notification to congressional committees before making payments that was included in the FY2002 supplemental.²⁴

A New Natural Resource Remediation Fund. DOD is requesting \$489.3 million for a new transfer fund, the Natural Resource Remediation Fund, that would cover expenses for emergency fire fighting, repairing damage to oil facilities and infrastructure and preserving distribution capability. The fund could also receive foreign contributions. Although the language itself does not identify Iraq, DOD's justification states that the funding is intended to ensure that fuel is available to the Iraqi people.

Issues in Defining DOD's Postwar Role. The establishment of a new account for funding firefighting and repair of Iraqi oil wells raises the larger issue of DOD's role in postwar Iraq. Although it may be difficult to anticipate the postwar situation in Iraq, some observers are concerned about the nature and extent of DOD's role, with some looking to DOD playing a larger role, and others, hoping to confine its scope because of concerns about "mission creep," the expansion of DOD's role beyond its traditional missions.

Because the fund is set up so that DOD could receive foreign contributions, DOD could become involved in managing larger amounts of funds than appropriated. As proposed, Congress would not have oversight over the allocation or management of these funds. In contrast, when it provided funds for Operation Desert Shield/Desert Storm, Congress required that all funds transferred from the Defense Cooperation Account into which allied contributions were deposited, were subject to specific appropriation acts.

²³ See CRS Report RL31715, *Iraq War: Background and Issues Overview*, section on Cost Issues.

²⁴ See *Conference Report on FY2002 Supplemental for Further Recovery From and response to Terrorist Attacks*, H.Rept. 107-593, p. 17, and See OMB, Transmittal to Speaker of the House, J. Dennis Hastert, FY2003 Supplemental Appropriations Request, March 25, 2003, Operation and Maintenance, Defense-wide; Estimate no. 4 on OMB web site: [http://www.whitehouse.gov/omb/budget/amendments/supplemental_3_25_03.pdf]

DOD is also proposing that the Defense Cooperation Account, which still exists, could continue to be used for foreign contributions. The new request proposes that any such contributions be considered to have been approved in the FY2003 Supplemental Appropriations Act. This use of the fund does not appear to be consistent with the practice in the past when Congress approved the transfer of allied contributions to specific accounts.

Working Capital Fund, Drug Interdiction in Colombia, Military Construction, Reimbursement for Afghan Drawdown Authority. The other areas where funds are requested for specific accounts include:

- \$430 million to cover higher oil costs that DOD is experiencing because of the spike in oil prices related to the war;
- funding for several military construction projects at undisclosed locations overseas;
- an additional \$34 million for counter drug activities in Colombia; (\$34 million is also provided for the Andean Counter Drug Initiative in the State Department section.); and
- \$165 million for reimbursement to the services for expenses already incurred in training, and equipping the Afghan Army as well as assisting Jordan.

Proposed Changes to Current Law To Increase DOD Flexibility

DOD is requesting several changes to current law to increase DOD's management flexibility contending that such changes are necessary to allow DOD to adapt quickly to the demands of the war on terrorism. Several potentially controversial proposals include:

- two proposals that would permit the Secretary of Defense to provide monies to regular foreign militaries and to irregular "indigenous" forces;
- two proposals to increase the amounts available to combatant commanders and the Secretary of Defense to respond to unanticipated expenses where funds could also be used to provide support to foreign military forces; and
- a large increase from \$2 billion to about \$9 billion in the ceiling set on the total amount of funds that can be transferred between appropriations.

Providing Aid to Regular and Irregular Foreign Forces. The supplemental request includes a general provision that would allow DOD to use up to \$150 million of funding in the supplemental to support indigenous forces assisting U.S. operations in support of the global war on terrorism. The provision is intended

to “clarify DOD’s authority to promote military cooperation in the global war on terrorism.”²⁵ (See additional discussion in section on Foreign Operations.)

Within the DERF account, DOD also proposes that up to \$50 million could be used to support the regular military forces of foreign nations to further the “global war on terrorism” as long as the Secretary of State concurred with the Secretary of Defense in providing funds. According to DOD, this new provision would enable DOD to provide aid to foreign forces “rapidly, in response to emerging, unanticipated emergency requirements.”²⁶

The request also raises the total amount available to the combatant commanders in the Commanders In Chiefs (CINC) Initiative Fund from \$25 million to \$50 million. This fund is available to combatant commanders for a wide variety of activities including not only training and selected operations of U.S. military personnel but also education, training and personnel expenses of foreign defense personnel in cooperative programs.²⁷

To increase DOD’s flexibility in carrying out these purposes, the supplemental request also proposes raising the limits that currently apply:

- to purchases, from \$7 million to \$15 million;
- to payments to foreign countries participating in exercises, from \$1 million to \$10 million; and
- to military education and training of foreign nationals, from \$2 million to \$10 million.²⁸

All these proposals would give the DOD additional authority to reimburse foreign military forces for expenses, including procurement, personnel costs, and exercises. Although the Secretary of Defense would need the concurrence of the Secretary of State in order to spend the additional \$200 million in funding – \$50 million for regular foreign forces and \$150 million for irregular forces – the legislation does not provide a mechanism for congressional oversight of these

²⁵ Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003, p. 31-p.32; [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf].

²⁶ Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003, p. 23-p.24; [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf].

²⁷ Title X, U.S. Code, Section 166. See Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003, p. 29 for proposed change.

²⁸ Title X, U.S. Code, Section 166a. See Department of Defense, *FY 2003 Supplemental Request for Military Operation in Iraq and the Global War on Terrorism*, March 25, 2003, p. 29 for proposed change.

activities before they occur. The Administration's proposal does include after-the-fact reporting, on a quarterly basis, for both types of reimbursement.²⁹

Issues in Cooperation with Foreign Military Forces. There could be debate about an expanded DOD role in developing relations with foreign military forces by providing assistance in the form of equipment, training, and paying their personnel. See section on Foreign Operations for additional discussion.

Change in Ceiling on Transfers. DOD is proposing a large increase in the annual ceiling set on the total amount of funds that can be transferred between appropriation accounts after enactment from \$2 billion to about \$9 billion.³⁰ DOD reprograms or shifts funds between appropriation accounts after enactment to reflect changes in priorities. DOD states that this additional flexibility, along with a lifting of the midyear deadline on reprogramming requests, would help DOD to respond to "emerging requirements, particularly in Iraq."³¹ The provisions in the supplemental request already exempt any transfers from the current \$2 billion ceiling. This proposal would apply to DOD's regular appropriations.

Allocation of DOD Funding by Phase of Operations

DOD provided a breakout of the \$62.6 billion according to several phases of operations as shown in **Table 4** below. In its justification material and recent press statements, DOD has characterized the \$30.3 billion of expenses for "coercive diplomacy" as incurred expenses.

"Coercive Diplomacy". Almost half of the \$30.3 billion is for personnel expenses including activation of reservists, and special pay for active-duty military in combat and support of those personnel for both the Iraqi conflict, Afghanistan, and enhanced security in the United States. Another \$7 billion is for the deployment and re-deployment of personnel to and from the theater. Although DOD is obligated to cover these expenses, DOD has not yet had to pay out most of these costs and some of these expenses could change because they will be incurred over the course of the next several months or after the war is over.

Major Conflict. DOD's estimate of the cost of the war itself appears to assume a short, intense conflict of about a month. Using plans for deployments and military operations developed by the combatant commanders, DOD estimates these

²⁹ See OMB, Transmittal to Speaker of the House, J. Dennis Hastert, FY2003 Supplemental Appropriations Request, March 25, 2003, provisions on the DERF and general provisions; see: [http://www.whitehouse.gov/omb/budget/amendments/supplemental_3_25_03.pdf]

³⁰ The proposed language permits DOD to transfer up to 2.5% of the \$355.1 billion appropriated in the FY2003 DOD Appropriations Act (P.L. 107-248) or \$8.878 billion.

³¹ See OMB, Transmittal to Speaker of the House, J. Dennis Hastert, FY2003 Supplemental Appropriations Request, March 25, 2003, general provisions; see estimate no. 4 on OMB web site: [http://www.whitehouse.gov/omb/budget/amendments/supplemental_3_25_03.pdf]

costs relying on a model developed in the mid-1990s for contingency operations.³² Assumptions about these plans underlie DOD's estimates of costs.

Transitional and Stability. DOD includes its postwar operational costs in this category, including funding to repair Iraqi oil facilities, and "Lower Intensity Operations" that may include the operational costs of an occupation force. The initial size and possible phase down of this force are not specified. Because of concerns about whether DOD is assuming an adequately-sized force for postwar occupation, Congress may want additional information about the assumptions behind these costs.

Although the Administration requests for DOD include little funding for the postwar phases of the Iraqi War, a controversy has developed about the Administration's plans for DOD to have a major role in allocating reconstruction funds requested for the Executive Office of the President that could be transferred to DOD (see section on Reconstruction Efforts below).

Reconstitution. Reconstitution refers to the repair of damaged equipment and replenishment of munitions, spare parts, or equipment lost in a war.

Issues about Funding Adequacy in FY2003 and Over the Long-Term. Given the large uncertainties in the course of the war in Iraq, some Members of Congress have expressed concern about whether DOD's request reflects an adequate level of funding. Because DOD has not revealed the assumptions underlying its estimates of costs, it is difficult to make judgements of whether proposed funding levels are adequate.

It is also difficult to predict the course of the war over the longer term. Responding to these concerns, the Senate recently set up a \$100 billion reserve fund for the war by decreasing the amount allocated to tax cuts by \$10 billion annually over the next ten years.³³

³² See DOD Financial Management Regulation, Volume 12, Chapter 23; on DOD web site: [http://www.dod.mil/comptroller/fmr/12/12_23.pdf]

³³ See S.Con.Res. 23 as amended on the floor. See *Congressional Record*, March 20, 2003, p. S4071-S4072, and March 21, p. S4230.

Table 4. DOD FY2003 Supplemental Request by Phase
(in billions of dollars)

Phase of Operations	FY2003	FY2003 Subtotals
Coercive Diplomacy Subtotal		30.3
Personnel/Personnel Support ^a	15.6	
Transportation To & From Theater Of Operations	7.1	
Preparatory Tasks ^b	2.5	
Consumables used to date ^c	2.3	
Coalition Support ^d	1.6	
Other ^e	1.2	
Major Conflict Subtotal		13.1
Spare Parts, Logistics support, Consumables	4.7	
Combat Operations	6.8	
Transportation Within Theater	1.6	
Military Personnel (included above)	NA	
Transitional and Stability Subtotal		12.0
Natural Resources Remediation Fund ^f	1.2	
Humanitarian Assistance	0.1	
Lower Intensity Operations ^g	11.4	
Classified Programs	NA	
Weapons of Mass Destruction Containment	NA	
Reconstitution ^h	7.2	
Ammunition replenishment	3.2	
Depot Maintenance and Other Reconstitution	3.7	
Procurement	0.3	
TOTAL		62.6

Sources: Under Secretary of Defense (Comptroller), *Briefing to the Congressional Oversight Committees, FY2003 Emergency Supplemental: Military Operations in Iraq and the Global War on Terrorism*, March 25, 2003; see [http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf].

^a Includes additional pay for active-duty military personnel in combat (e.g. hazardous duty pay), cost of activating reservists, and personnel support.

^b Specific definition not provided; includes setting up overseas bases.

^c Consumables include paying higher prices for fuel than anticipated, expended munitions, and food and medical supplies.

^d Includes request of \$1.4 billion for payments to Pakistan, Jordan, and “other key cooperating nations” for logistical and military support in the war on terrorism in Afghanistan; also includes \$0.1 billion for Free Iraqi Forces and \$0.2 billion for the Afghan Army.

^e “Other” includes enhancements to White House and other communications systems, improvements to the Navy base at Guantanamo Bay housing prisoners from Afghanistan, logistics support, other projects and replenishment of equipment.

^f DOD is requesting \$489 million for emergency firefighting, repair of damage to Iraqi oil fields, and providing fuel to the Iraqi people.^e

^g May be operational costs of occupation force.

^h Includes replacement of expended munitions and equipment, and depot maintenance for equipment.

Allocation of DOD Funding by Major Type of Expense

Although DOD's justification materials include an illustrative allocation of expenses to be covered in the DERF account by appropriation account, these allocations would not be binding, and could be changed in response to the course of the war in Iraq or changes in DOD priorities. **Table 5** shows these potential allocations.

Personnel and Personnel Support. Personnel costs account for much of the total cost of the war in Iraq, continued expenses in Afghanistan, and enhanced security in the United States. They reflect both increases in overall strength levels of active-duty military and activation of reservists. The expense breakdown below does not, however, show either the number of reservists that DOD plans to activate over the rest of the fiscal year or the allocation of personnel among the different missions funded in the supplemental or the types of tasks that these personnel are carrying out.

Starting in January 2003, DOD rapidly increased the number of reservists being called up for the Iraqi war. Before the buildup, about 50,000 to 55,000 reservists were on active-duty to provide support for operations in Afghanistan or enhanced security in the United States, a decrease from the 80,000 called up in the months after the September 11th attacks. The current level of activated reservists is over 200,000, according to the Defense Department. DOD's estimates of cost in **Table 5** are built on assumptions about the number of reservists needed during the war with Iraq and for the occupation force that would remain afterwards but those numbers are not provided in its justification material.

Military Operation Support . According to various sources, it appears that DOD anticipated a short, intense war of about one month, which would be roughly consistent with the \$14 billion in operating support shown below. (This estimate is considerably higher than a recent CBO estimate of \$10 billion based on current force levels.)³⁴

DOD's estimated cost of \$100 million reflects its expectation that its role in humanitarian assistance will be limited. Apparently, DOD envisions its major postwar role in Iraq as providing security through its occupation force, and repair of Iraq's oil fields.

Procurement. DOD does not specify the mix of munitions or equipment which it expects will need replacement. Although there is clearly considerable uncertainty about replacement costs, the \$3.7 billion estimate is predicated on assumptions about likely loss rates.

³⁴ CBO revised its estimates based on current deployments, see CBO, *An Analysis of the President's Budgetary Proposals for Fiscal Year 2004*, March 2003, p. 4; see [<http://www.cbo.gov>]. CBO's methodology uses cost factors of the services.

**Table 5. FY2003 DOD Supplemental, by Purpose,
Based on DOD's Justification Material**
(in billions of dollars)

Purpose/Type of Expense	FY2003	FY2003 Subtotals
Military Personnel Expenses Subtotal		10.398
Active-Duty Military Personnel Special Pays	2.000	
Higher Active-Duty Levels	1.450	
Cost of Mobilizing Reservists	6.948	
Personnel Support (O&M funded) Subtotal		5.240
Active-Duty Personnel Support	3.365	
Mobilized reserve Support	1.541	
Defense Health Program	0.302	
Other personnel costs	0.032	
Military Operation Support (O&M Funded) Subtotal		37.760
Operating Support	14.122	
Transportation	10.804	
Facilities/Base Support	6.992	
Command, Control, Communications and Intelligence	3.177	
Guantanamo Bay Improvements	0.010	
Preparatory Tasks	2.547	
Humanitarian Assistance	0.107	
Procurement Subtotal		4.693
Munitions	3.700	
Other procurement	0.993	
RDT&E		0.058
Working Capital Fund: For Higher Oil Prices		0.430
Military Construction Subtotal		0.177
Military Construction, Navy	0.048	
Military Construction, Air Force	0.129	
Other Subtotal		3.805
Classified	1.717	
Natural Resource Risk Remediation Fund	0.489	
Operation and Maintenance, Army	0.035	
Operation and Maintenance, Navy	0.075	
Operation and Maintenance, Air Force	0.055	
Operation and Maintenance, Defense-wide	1.400	
Drug Interdiction and Counter-Drug Activities	0.034	
TOTAL		62.561

Source: Department of Defense, FY2003 Supplemental Request for Military Operations in Iraq and the Global War on Terrorism, March 25, 2003;

[http://www.defenselink.mil/comptroller/defbudget/fy2004/DoD_Justification-FY03_Iraqi_Freedom_Supplemental.pdf].

Iraq Reconstruction and International Assistance

The President's supplemental proposal included \$7.79 billion for near-term Iraq reconstruction and relief, additional aid to coalition partners and other states cooperating in the global war on terrorism, and related State Department and USAID administrative expenses. Most of the funds – \$7.6 billion – fell under the jurisdiction of Foreign Operations appropriations programs. By comparison, the supplemental request totaled a little less than half of the \$16.2 billion appropriated previously by Congress for FY2003 Foreign Operations activities.

The proposal, as detailed below in Table 5, was roughly divided into two components: Iraq relief and reconstruction (about \$2.85 billion)³⁵ and aid to coalition partners and other nations engaged in the war on terrorism (about \$4.7 billion).

Reconstruction Efforts

Under the Administration's plan, the bulk of Iraqi reconstruction funds would be deposited in a special Iraq Relief and Reconstruction Fund, which would be managed by the White House. Out of this \$2.44 billion Fund, resources would be drawn and transferred to implementing agencies to pay the costs of immediate humanitarian relief and reconstruction activities over a 12-month period following the end of hostilities.

Normally, it would be presumed that transfers for reconstruction and post-conflict aid would be made to USAID, the State Department, and other traditional foreign assistance management agencies. But with plans for the Defense Department to oversee the governing of Iraq immediately after the end of hostilities, the White House wanted to have maximum flexibility over the distribution of resources so the President could transfer some or all of the funding to DOD. The proposal stimulated immediate controversy with a number of critics, including Members of Congress, arguing that aid programs should remain under the policy direction of the State Department and under the authorities of a broad and longstanding body of foreign aid laws. They pointed out that during other recent reconstruction initiatives in Bosnia and Kosovo, resources and policy decisions flowed through the Secretary of State. Others argued that groups which would play a significant role in post-war rehabilitation efforts – non-governmental organizations (NGOs), foreign donors, and international organizations – would be reluctant to take direction and funding from the U.S. military. This, they contended, would hamper relief activities.³⁶

³⁵ OMB documents estimate the total amount for Iraq reconstruction was \$3.5 billion, a figure that included nearly \$500 million from DOD funding for the repair of oil facilities.

³⁶ See, for example, *U.S. Bureaucratic Battle Over Postwar Aid to Iraq Heats Up*, Agence France-Presse, April 2, 2003; and *Congress: Powell Should Control Postwar Spending*, USA Today, April 4, 2003, p. A.06.

Furthermore, the placement of reconstruction funding in a Presidential account appeared to grant the White House significant discretion in responding to changing and unanticipated demands, unencumbered by specific programmatic allocations. The Administration said only that \$543 million would cover humanitarian expenses, \$1.7 billion would be set aside for reconstruction needs, and up to \$200 million would be available to reimburse foreign aid accounts from which funds were drawn prior to conflict.

According to Administration documents, reconstruction funds would focus initially on the most urgent needs to restore minimal services to the Iraqi population. Emphasis would be placed on rebuilding water and sanitation capacity, restoring public health facilities, refurbishing seaports and airports in order to move humanitarian supplies into the country, reestablishing a food distribution system, and generating emergency electricity. Following this early stage, the White House plan called reconstructing broad economic and institutional capacity. This second phase would target the restoration of roads, schools, hospitals, markets, irrigation systems, and electrical generation, together with the construction of a framework within which to operate education, economic, agriculture, and good governance institutions.

Apart from the Relief and Reconstruction Fund, the Administration also sought \$200 million to replenish refugee, disaster, and other economic aid accounts that had already financed the costs of food and other commodities. A portion of these funds would also bolster the size of humanitarian accounts so that future “borrowings” from other aid sources to meet the needs in Iraq would be minimized. The State Department and USAID further requested appropriations to establish safe and secure temporary facilities in Iraq and to eventually build an embassy and aid mission in Baghdad.

Congressional Action on Iraq Reconstruction. As cleared by Congress, H.R. 1559 appropriates \$2.475 billion for the Relief and Reconstruction Fund, slightly higher than requested. The President will be able to apportion Fund resources directly to five federal agencies: the Departments of Defense, State, Health and Human Services, and Treasury, and USAID. In previous congressional debate, the House and Senate had each expressed their expectations that these funds would be channeled to the Secretary of State, and in most instances, further directed to USAID. The report accompanying S. 762 specifically noted that the funds were not expected to be transferred to the Secretary of Defense. Nevertheless, the White House continued to argue for greater flexibility and authority to place reconstruction resources under DOD auspices, and ultimately conference committee members agreed. The enacted legislation, however, specifies that the Iraq Fund will fall under the authorities of the Foreign Assistance Act of 1961 and that Congress will be notified five days in advance of any obligation of amounts from the Fund. Further, these advance notifications will be reviewed under the same terms as regular foreign aid notifications to the Appropriation Committees, a process through which Members may place “holds” on the obligation of resources pending further consultation. H.R. 1559, as approved, also strengthens congressional oversight of the Fund by requiring two reports within the first 45 days of enactment regarding how the Fund will be organized and other issues such as reconstruction and government-creation strategies, coordination with other donors, and overall costs. Beginning in mid-July 2003, H.R. 1559 requires quarterly status reports on Fund operations.

Table 6. Iraq Reconstruction, International Aid, and Related Activities
(in millions of dollars)

Activity	Request	House	Senate	Enacted
Iraq Relief and Reconstruction:				
Iraq Relief and Reconstruction Fund	\$2,443.3	\$2,483.3	\$2,468.3	\$2,475.0
Of which:				
Reconstruction priorities for public health, water and sanitation, seaports/airports, food-distribution networks, and electricity. Post-conflict emphasis on education, governance, economic institutions, agriculture, and infrastructure repair.	\$1,700.0	–	–	–
Humanitarian aid, refugee and displaced persons relief, demining	\$543.0	–	–	–
Reimbursement to USAID’s Development, Child Survival and ESF aid accounts previously drawn upon to provide food commodities.	\$200.0	fully reimburse ^a	\$260.0	fully reimburse
Reimbursement to USAID’s International Disaster Assistance account for previously drawn upon resources for food distribution, mainly through the UN WFP, and for immediate reconstruction.	\$80.0	\$160.0	\$112.5	\$143.8
Reimbursement to USAID’s Child Survival/Health account for previously drawn upon resources for water and sanitation reconstruction.	\$40.0	\$40.0	\$90.0	\$90.0
Reimbursement to USAID’s Economic Support Fund account for previously drawn upon resources for emergency relief and non-health reconstruction.	\$40.0	–	\$40.0	\$40.0
Reimbursement of PL480 food assistance, including the Bill Emerson Humanitarian Trust	–	\$319.0	\$600.0	\$369.0
Replenishment of the Emergency Refugee and Migration Aid (ERMA) fund to restore \$17.9 million that has been drawn down for Middle East contingencies and to have funds available for needs worldwide.	\$50.0	\$80.0	\$75.0	\$80.0
Peacekeeping funds for coalition partners engaged in post-conflict Iraq	\$200.0	\$115.0	\$150.0	\$100.0
Subtotal, Iraq Reconstruction	\$2,853.3	\$3,197.3	\$3,535.8	\$3,297.8

Activity	Request	House	Senate	Enacted
Assistance to Coalition Partners & Cooperating States in War on Terrorism				
Israel military grant.	\$1,000.0	\$1,000.0	\$1,000.0	\$1,000.0
Israel economic loan guarantees. Israel will pay all fees associated with the cost of \$9 billion in loan guarantees.	[\$9,000.0] ^b	[\$9,000.0] ^b	[\$9,000.0] ^b	[\$9,000.0] ^b
Egypt economic grant, a portion of which can be used for up to \$2 billion in loan guarantees.	\$300.0	\$300.0	\$300.0	\$300.0
Jordan economic and military grants. ^c	\$1,106.0	\$1,106.0	\$1,106.0	\$1,106.0
Palestinian economic grant.	\$50.0	NS	NS	NS
Turkey economic grant, a portion of which can be used for up to \$8.5 billion in direct loans.	\$1,000.0	\$1,000.0	\$1,000.0	\$1,000.0
Philippines economic and military grant.	\$30.0	NS	\$80.0	\$60.0
Pakistan military grant and law enforcement aid. ^c	\$200.0	\$200.0	^d	\$200.0
Djibouti economic and military grants.	\$30.0	NS	NS	NS
Oman military grant.	\$62.0	NS	NS	NS
Bahrain military grant.	\$90.0	NS	NS	NS
Colombia military and counter-narcotics grants to support unified campaign against drugs and terrorism. ^e	\$71.0	NS	NS	NS
Afghanistan economic, military, anti-terrorism, and demining grants.	\$325.0	\$325.0	^d	\$365.0
Middle East Partnership Initiative and Muslim World Outreach. ^f	\$200.0	\$105.0	^d	NS
Central Europe military grants. ^g	\$84.1	NS	^d	NS
US Emergency Fund for Complex Foreign Crises – aid to support contingencies for coalition countries .	\$150.0	\$0.0	\$150.0	\$0.0
Subtotal, Aid to Coalition Partners & Cooperating States	\$4,698.1	\$4,488.1	\$4,604.0	\$4,518.1

Activity	Request	House	Senate	Enacted
State Department Administration & Other Activities				
State Department Diplomatic and Consular Affairs	\$101.4	\$106.4	\$93.4	\$98.4
Of which:				
Task Force Surge Support operations.	\$5.0	\$5.0	NS	\$5.0
Baghdad embassy reopening; enacted amount includes diplomatic security	\$17.9	\$17.9	\$17.9	\$35.8
Medical supplies	\$15.6	\$15.6	\$15.6	\$15.6
Security upgrades	\$10.0	\$10.0	\$10.0	\$10.0
Machine Readable Visa fee shortfalls	\$35.0	\$35.0	\$30.0	\$32.0
Consular Affairs	–	–	\$2.0	–
Worldwide emergency response	–	\$30.6	–	–
State Department embassy construction	\$20.0	\$71.5	\$82.0	\$149.5
Of which:				
Temporary facilities in Iraq.	\$20.0	–	\$20.0	\$61.5
Non-official facilities frequented by U.S. citizens overseas	–	–	\$10.0	\$10.0
Facilities and security in Rome, Italy	–	–	–	\$78.0
USAID mission in Iraq, and, as enacted, IG monitoring of the Iraq Fund, and USAID security needs in Pakistan, Afghanistan, and Indonesia.	\$22.0	\$23.0	\$23.6	\$24.5
Potential emergency evacuations of US government employees, families, and private American citizens.	\$65.7	\$65.7	\$40.0	\$50.0
Radio broadcasting to Iraq and Middle East Television Network	\$30.5	\$30.5	\$62.5	\$30.5
Iraq War Crimes Tribunal and investigations into war crimes allegations	–	–	\$10.0	\$10.0
Subtotal, State Department & Other	\$239.6	\$297.1	\$311.5	\$362.9
TOTAL, Iraq Reconstruction, International Aid, & Related Activities	\$7,791.0	\$7,982.5	\$8,451.3	\$8,178.8

NS = Not specified.

^a The House Appropriations Committee stated that up to \$495 million in reimbursements was included in H.R. 1559.

^b No appropriation required.

^c DOD funds (\$1.3 billion) were requested and enacted for Jordan, Pakistan, and other “key cooperating states” providing logistical and military support to U.S. military operations in Iraq and in the global war on terrorism.

^d Request “supported” in Senate bill.

^e DOD funds (\$34 million) were also requested and enacted for drug interdiction and counter-drug activities in Colombia.

^f House bill funds an Islamic Partnership and Outreach Program.

^g Central Europe includes Poland (\$15 million); Hungary (\$15 million); Czech Republic (\$15 million); Estonia (\$2.5 million); Latvia (\$2.5); Slovakia (\$6 million); Romania (\$15 million); Slovenia (\$5 million); Lithuania (\$3.5 million); and Bulgaria (\$5 million).

The enacted bill further directs higher and more specific amounts that should be used to replenish several foreign aid accounts that had been drawn upon in order to preposition food and medicine stocks in the region and for other pre-conflict humanitarian purposes. The conference agreement directs “full and prompt” reimbursement of USAID and State Department accounts from the Iraq Fund. The supplemental provides \$143.8 million for international disaster assistance, \$112.5 million of which will restore funds diverted previously for Iraq. The remaining balance will augment USAID disaster relief resources to respond to foreign contingencies that may arise through the end of FY2003. Similarly, Congress increased the State Department’s refugee reserve account from the \$50 million requested to \$80 million in order to address needs in the Persian Gulf region as well as other global requirements. H.R. 1559 also includes \$369 million to reimburse food aid accounts from which commodities for Iraq were drawn. This includes \$69 million to replenish stocks in the Bill Emerson Humanitarian Trust. The House had added \$250 million additional food aid while the Senate, by way of an amendment by Senator Kohl, had recommended \$600 million. In total, the enacted legislation provides roughly \$920 million for reimbursing these foreign aid accounts, more than double the Administration’s \$410 million request.

International Assistance. The supplemental appropriation proposal would have provided about \$4.7 billion in additional aid to 23 countries and regional programs that are contributing to the war in Iraq and cooperating in the global fight against terrorism. **Table 6** provides a complete list of proposed recipients. Among the largest and most complex aid packages would be:

- Jordan – \$700 million in economic grants and \$406 million in military transfers. This would be on top of Jordan’s regular \$452 aid package from the U.S.
- Israel – \$1 billion in supplemental military aid (on top of the \$2.7 billion regular FY2003 assistance) and \$9 billion in economic loans guaranteed by the U.S. government over the next three years. Israel would pay all costs – fees that may total several hundred of million dollars – associated with these economic stabilization loans. Conditions on the loans, similar to those that were applied in the early 1990s when Israel drew on a \$10 billion U.S.-backed loan package, would be employed.
- Turkey – \$1 billion for economic grants which could be applied to fees associated with \$8.5 billion in direct loans or loan guarantees.
- Afghanistan – \$325 million in economic grants, anti-terrorism, demining, and military transfers. This would be in addition to roughly \$350 million already scheduled for Afghanistan this year.
- Egypt – \$300 million for economic grants, a portion of which could be used to gain access to up to \$2 billion in loan guarantees. Depending on the terms of the loan, if Egypt chose to receive the full \$2 billion, about \$120 million or more of the \$300 million would be applied to the costs faced by the United States of guaranteeing the

loans. The Administration further proposes to reprogram \$379.6 million in previously appropriated commodity import program aid to Egypt as a cash transfer. The supplemental would come on top of \$1.9 billion in regular U.S. aid to Egypt.

- Pakistan – \$200 million in military grants and law enforcement assistance. Pakistan currently receives \$305 million in FY2003.

The Administration further requested \$150 million to initiate a U.S. Emergency Fund for Complex Emergencies, a contingency account that would allow the President to address quickly unforeseen needs of coalition partners. The Fund, which would be managed by the White House, had originally been proposed for an FY2004 startup of \$100 million.

Congressional Action on International Assistance. H.R. 1559, as approved, includes \$4.52 billion in additional aid to countries and regional programs, about \$180 million less than requested. Nearly all of this reduction, however, comes from Congress' decision not to fund the President's \$150 million emergency account for complex crises. In most other cases, the Administration will be able to allocate these foreign aid resources as it had intended. Congress earmarked funding at the requested levels for Israel, Egypt, Jordan, and Pakistan, while adding resources for Afghanistan and the Philippines (see **Table 6**). Turkey may receive "not to exceed" \$1 billion, aid that is conditioned on a requirement for the Secretary of State to certify that Turkey is cooperating with the United States in Operation Iraqi Freedom, including the facilitation of moving humanitarian aid into Iraq, and has not unilaterally deployed forces in northern Iraq. The restriction on Turkey's aid package, the size of which could grow to \$8.5 billion if the loan option is implemented, combines text in House and Senate-passed bills. Earlier, the House had defeated two amendments that would have eliminated aid to Turkey or reduced it by \$207 million.

For Israeli loan guarantees, the enacted supplemental includes the full \$9 billion proposal, but adds conditions not included in the proposal. Loans may be issued in \$3 billion allotments in each of FY2003 to FY2005, a provision that will allow the President to reduce disbursements in the second and third years Israel violate any of the loan conditions. One such condition added by Congress prohibits loan resources from supporting any activity in geographic areas that were not administered by Israel prior to June 5, 1967. This is similar to a condition attached to the 1992 \$10 billion loan guaranty package for Israel, some of which was not disbursed because of continued Israeli settlement activity in the West Bank area.

Table 7. Proposed Recipients of Supplemental Foreign Aid
(\$s millions)

	Economic	Loans	Military	Anti-Terrorism	Narcotics/Law	TOTAL
Jordan	\$700 ^a	–	\$406 ^a	–	–	\$1,106
Israel	–	[\$9,000]	\$1,000 ^a	–	–	\$1,000
Turkey	\$1,000 ^a	[\$8,500]*	–	–	–	\$1,000
Afghanistan	\$127 ^b	–	\$170 ^a	\$28 ^a	–	\$325
Egypt	\$300 ^a	[\$2,000]*	–	–	–	\$300
Pakistan	–	–	\$175 ^a	–	\$25 ^a	\$200
Bahrain	–	–	\$90	–	–	\$90
Colombia	–	–	\$37	–	\$34 ^a	\$71
Oman	–	–	\$62	–	–	\$62
Palestinians	\$50	–	–	–	–	\$50
Djibouti	\$25	–	\$5	–	–	\$30
Philippines	– ^c	–	\$30	–	–	\$30
Czech Rep.	–	–	\$15	–	–	\$15
Hungary	–	–	\$15	–	–	\$15
Poland	–	–	\$15	–	–	\$15
Romania	–	–	\$15	–	–	\$15
Slovakia	–	–	\$6	–	–	\$6
Bulgaria	–	–	\$5	–	–	\$5
Slovenia	–	–	\$5	–	–	\$5
Estonia	–	–	\$3	–	–	\$3
Latvia	–	–	\$3	–	–	\$3
Lithuania	–	–	\$3	–	–	\$3

* Up to this amount. Loans would not require additional appropriations since economic grants would be used to pay for loan fees.

^a Amount is earmarked or recommended in the enacted supplemental appropriation.

^b The enacted supplemental appropriation provides \$167 million.

^c The enacted supplement appropriation includes \$30 million for Philippine economic aid.

Although most of the President's request for international assistance is supported in the enacted emergency supplemental, the Administration will have to reduce economic assistance for a few countries. Congress cut Economic Support Fund appropriations by \$20 million, but because of earmarks and additions for Afghanistan, the Philippines, and \$10 million to investigate possible Iraqi leadership war crimes, executive officials will have \$100 million less than requested in economic assistance for countries not protected by legislative directives. Non-earmarked programs include \$50 million for the Palestinians, \$25 million for Djibouti, and \$200 million for the Middle East Partnership Initiative. Instead of taking the entire \$100 million from these three areas, another option the Administration might consider is allocating something less than \$1 billion for Turkey. Congress will be notified once those decisions have been made.

Key Issues Regarding Iraq Reconstruction and International Assistance

The proposed supplemental raised a number of issues and concerns, including those focusing on the extent of executive flexibility sought by the President, how much more Iraq reconstruction might cost and whether these demands would erode funding for other foreign aid priorities, whether the purposes and amounts of country assistance were appropriate, and whether DOD's request for authority and funds to aid indigenous forces was consistent with traditional U.S. military assistance programs managed by the State Department.

Executive Flexibility and Congressional Oversight. Throughout the supplemental request, in both the defense and Iraq reconstruction/international assistance sections, the President sought authorities that would maximize flexibility in responding to fluid and rapidly changing demands. Among the most significant authorities affecting the use of foreign aid funds were:

- **Iraq Relief and Reconstruction Fund** – The Administration's budget justification for the White House managed \$2.44 billion Fund offered only broad purposes for which the money would be used and divided the money into three general categories. Iraq reconstruction plans submitted by the State Department to Congress offered some details on specific sectors, how the U.S. would respond, and the timing of actions over the next year. Funding amounts for each activity, however, were not provided, as is usually the case with foreign aid justifications. Moreover, since the funds would be appropriated into a Presidential fund, it would be possible for the White House delegate the resources to any agency, including the Defense Department, for reconstruction implementation. As noted above, this prospect of DOD management raised disputes within the Administration and the American international NGO community, with critics arguing that it would be inappropriate for the military to control a civilian operation. The proposal to establish a central Fund most closely resembled how the Administration programmed U.S. relief for victims of Hurricane Mitch in Central America in 1999 and Bosnia reconstruction efforts in 1996. In both cases Congress

appropriated money into special funds, but placed them under the control of USAID and added numerous directives over how portions of resources should be used and various notifications for informing Congress in advance of committing the money. Moreover, the supplemental request for the Relief and Reconstruction Fund would make the appropriations available “notwithstanding any provision of law.” This would remove any of the numerous restrictions and conditions that generally apply to U.S. foreign assistance, including provisions relating to human rights, proliferation, government legitimacy, contract negotiations, among others. Waivers of these restrictions are generally applied only to humanitarian programs. Congress rejected a similar request last year for supplemental economic and military aid to the front-line states in the war on terrorism.

- U.S. Emergency Fund for Complex Crises – For many years, Administrations have asked Congress for various types of contingency resources that can be drawn upon immediately to address unanticipated foreign policy emergencies. Except in the case of humanitarian situations, however, Congress has been reluctant to support such requests, stating that the President has other mechanisms and special authorities for temporarily “borrowing” funds from other aid accounts over which Congress can more closely maintain scrutiny and consult in advance as the purposes of the transfers. The President’s \$100 million FY2004 request to create the Crises Fund had already raised concerns among some Members during hearings on next year’s budget request.
- Transfer of funds among different accounts – The supplemental proposed that up to \$200 million of international assistance, State Department money, and the Iraq Relief and Reconstruction Fund could be transferred between the accounts for any purpose. Longstanding foreign aid laws place percentage caps on the amount that can be taken from most accounts (10%) and how much the receiving account can increase (20%).³⁷ Annual Foreign Operations appropriations further require the President to consult and justify the transfer in advance with House and Senate Appropriations Committees. In some circumstances, the Administration’s supplemental proposal could have resulted in transfers exceeding the percentage caps. The request further did not require any congressional notification or consultation.

As noted above, the enacted supplemental establishes the Relief and Reconstruction Fund proposed by the President, but with added oversight mechanisms put in place. Although the President may apportion resources directly to DOD, as well as the Departments of State, Treasury, Health and Human Resources, and USAID, the Iraq Fund falls under the authority of existing foreign aid

³⁷ Section 610 of the Foreign Assistance Act of 1961.

laws. H.R. 1559 also adds several reporting requirements, as mentioned above, and requires notification 5 days in advance of any Fund obligations. The enacted supplemental further deletes appropriations for the President's emergency fund for foreign crises and limits to \$100 million the amount that can be transferred among the various aid accounts.

Costs of Iraq Reconstruction and the Impact on Other Aid Programs. Like the costs of military operations, it is nearly impossible to estimate what the longer-term expenses of humanitarian relief and reconstruction in Iraq will be. The Administration's \$3.5 billion included in the supplemental request represented a general projection of needs over the next 12 months. But State Department activity justifications cautioned that the timetable was tentative, dependent largely on the extent of damage that resulted from the conflict and how future assessments might alter aid priorities. Some believed that reconstruction needs beyond this initial allotment would be met largely through proceeds from the sale of Iraqi oil and the release of frozen assets. The international aid community is currently discussing how post-conflict relief efforts will proceed, but there is a great deal of uncertainty over the Administration's intentions and the actual final outcome. How soon and in what amounts Iraq might gain access to borrowing from the International Financial Institutions will also be a factor in how much additional resources will be needed or expected from the United States.³⁸

In the meantime USAID and the State Department have been drawing resources for Iraq from emergency refugee and disaster relief accounts, and from other economic aid programs that had been intended for other countries and purposes. As of March 25, USAID had utilized an estimated \$506 million, including drawdowns from the Child Survival and Health (CS/H), Development Assistance (DA), and Economic Support Fund (ESF) accounts. For Child Survival and Development programs, amounts diverted to Iraq contingency activities represented nearly 8% of FY2003 appropriations. The supplemental request included about \$410 million for either replenishing CH/H, DA, and ESF accounts, or increasing disaster and refugee resources so that future "borrowings" might be avoided and adequate funds would be available for contingencies that might arise later in the year in other regions. But the supplemental did not appear to fully cover USAID transfers already made for Iraq programs. Moreover, the supplemental provided "up to \$200 million may be used" out of the Relief and Reconstruction Fund to repay these accounts. This discretionary language left the final decision up to the White House as to whether these funds would be available for the purposes and programs for which they were originally intended.

The conference agreement on H.R. 1559 adds substantial amounts, as noted above, for replenishing foreign aid accounts from which money has been drawn for Iraq operations. The enacted supplemental provides over \$900 million to restore

³⁸ For more discussion of these issues see CRS Report RL31814, *Humanitarian Issues in Post-War Iraq: An Overview for Congress*; CRS Report RL31759, *Reconstruction Assistance in Afghanistan: Goals, Priorities, and Issues for Congress*; and CRS Report RL31833, *Iraq: Recent Developments in Humanitarian and Reconstruction Assistance*.

funds for several programs, including the addition of \$369 million in food assistance that had not been requested.

Country Assistance. The Administration asked not only for funds to assist coalition partners and nations that face significant economic and political risks due to the Iraq conflict, but also to augment support for a broader set of countries cooperating in the global war on terrorism. Some questioned whether a supplemental appropriation intended to provide resources specifically related to the Iraq situation should include nearly \$700 million for this latter group, especially since Congress approved in mid-February FY2003 money for this purpose (P.L. 108-7). Among the countries covered by the request, but which are outside the conflict in Iraq were:

- Afghanistan – The Administration proposed \$325 million to “meet immediate shortfalls” in Afghanistan’s FY2003 program, including resources for the Kabul-Kandahr-Herat road, budget support for the Afghan government, President Karzai’s protective detail, demining, and military training and equipment costs. Although the Administration did not submit an official FY2003 Afghan aid request, Congress increased assistance to over \$300 million.
- Pakistan – The supplemental proposed an additional \$175 million in military aid to strengthen Pakistan’s ability to track and disable terrorists operating in its own territory and \$25 million for better border security.
- Colombia – Included in the supplemental request was \$71 million in military and counter-narcotics assistance for supporting Colombia’s unified campaign against drug cartels and terrorists. The proposal also included an additional \$34 million of DOD funds for narcotics interdiction operations. In the FY2003 Foreign Operations Appropriation, Congress approved \$700 million for the Andean Counter-narcotics Initiative for Colombia and other countries in the region, \$31 million less than the President had requested.
- Palestinians – The request would extend \$50 million to support Middle East peace objectives generally, and specifically for humanitarian activities in the West Bank and Gaza and for Palestinian civil reforms. Congress had appropriated in August 2002 a similar \$50 million package, together with \$200 million for Israel, in the FY2002 Supplemental Appropriation. President Bush chose not to spend the funds because they were part of a much larger appropriation for programs he had not requested. Instead, he amended the FY2003 Foreign Operations request to include the Palestinian and Israeli funds but Congress did not increase overall appropriations to accommodate these additions.
- Philippines – The \$30 million in military support would allow the Philippines to upgrade its counterterrorism capabilities. Like the Palestinian funds above, Congress provided \$30 million for the

Philippines in the FY2002 supplemental which the President chose not to spend.

- Slovenia – Not a member of the coalition, Slovenia would receive \$5 million in military assistance in recognition of its efforts in providing access and overflight rights in Operating Enduring Freedom and contributing to the Afghan National Army and demining program.

Beyond this list, some questioned the Administration's \$1 billion request for Turkey that could be converted into as much as \$8.5 billion in loans. The United States had negotiated with the Turkish government for months over allowing the deployment of U.S. forces in Turkey for military operations for a second front in northern Iraq. Reportedly, the United States offered a \$6 billion aid package that could be leveraged into \$26 billion in combined grants and loans. On March 1, however, the Turkish parliament rejected the U.S. request to base troops for operations in Iraq and the United States withdrew the aid offer. Turkey's government has subsequently granted U.S. overflight rights for the Iraq campaign. The Administration justifies the \$1 billion request on the basis of Turkey's role as an ally and frontline state in the war on terrorism, and for the significant political and economic risks faced by Ankara due to the Iraq conflict.

As noted above, the enacted supplemental, for the most part, supports the President's foreign aid allocations for requested countries. Conditions are added to funds for Turkey but amendments to eliminate or reduce the \$1 billion package failed in the House. H.R. 1559, as approved, however, will require the Administration to make some economic aid reductions for some countries and programs not earmarked, possibly including those for the Palestinians, Djibouti, Turkey, or the Middle East Partnership Initiative.

DOD Authorities to Provide Military Aid. Under sections relating to Defense Department funds and authorities, the supplemental proposed two items that drew particular congressional attention. The key issue was whether they infringed on congressional oversight and the State Department's traditional role in directing foreign aid policy and resource allocations. They were both similar to proposals made last year in the FY2002 supplemental that focused on the war on terrorism and were closely scrutinized by Congress.

The first would provide \$1.4 billion for the Defense Department, "notwithstanding any provision of law," to pay Jordan, Pakistan, and other nations that have provided logistical and military-related support to U.S. military operations in Iraq or in the global war on terrorism. In the past, Defense officials argue, competing demands on regular military aid resources have delayed reimbursement to key friends that provide services to American forces. Congress approved funding in the FY2002 supplemental for this purpose, but included a 15-day prior notification requirement that is not part of the FY2003 supplemental draft legislation.

The more controversial authority concerned DOD's request for \$150 million to support "indigenous forces" assisting U.S. military operations, including those aimed at the global war on terrorism. Decisions to draw on these funds would be made by

the Secretary of Defense, with the concurrence of the Secretary of State. The Defense Department defines indigenous forces as “irregular forces and resistance movements” and notes that such forces “generally conduct military and para-military operations in enemy-held or hostile territory and conduct direct offensive low-intensity, cover, or clandestine operations.”³⁹ Although it was unclear from the budget justification and bill text exactly what groups and under what scenarios the Administration would utilize these resources, a senior Administration official suggested that the intent was to have resources available for groups in Iraq. Deputy Secretary Richard Armitage testified on March 27 that because of the uncertainty of the war’s duration, it might be necessary to transfer additional arms and equipment for Kurdish and other forces, and that the \$150 million would provide a “hedge” in case of a more prolonged conflict.⁴⁰ In last year’s supplemental appropriation debate, DOD had asked for \$30 million to support indigenous forces, funds that would be exclusively under the control of the Secretary of Defense. Congress rejected the proposal, however. The House Appropriations Committee observed in deleting the request that the Secretary of State’s primary responsibility over U.S. military assistance programs is well established and that the Administration has the necessary authorities under existing foreign aid laws to undertake the requested activities.⁴¹

H.R. 1559, as enacted, provides the \$1.4 billion for nations supporting U.S. military operations in the global war on terrorism but does not authorize the \$150 million for aid to indigenous forces.

Homeland Security

The smallest component of the supplemental proposal covered additional resources for homeland security. Some critics of Administration homeland security policy, including some Members of Congress, believe that key domestic preparedness measures have been under-funded and argue for additional resources. In some cases, as discussed elsewhere in this report, Members offered amendments increasing amounts for homeland security. Details of congressional action on homeland security funding matters are included in **Table 8**.

³⁹ U.S. Office of Management and Budget, *FY2003 Request for Supplemental Appropriations*, March 25, 2003, no pagination. Available on the OMB Web site at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_3_25_03.pdf].

⁴⁰ House Appropriations Subcommittee on Foreign Operations, Hearing on the Iraq War Supplemental, testimony of Richard Armitage, Deputy Secretary of State, March 27, 2003.

⁴¹ Making Supplemental Appropriations for Further Recovery from and Response to Terrorist Attacks on the United States for FY2002. Report to accompany H.R. 4775. H.Rept. 107-480, May 22, 2002.

Table 8. Homeland Security
(\$s millions)

	Request	House	Senate	Enacted
Dept Homeland Security: Counterterrorism Fund	\$1,500.0	^a	\$1,135.0	\$150.0
Dept of Homeland Security:				
Operating expenses	–	\$1.0	–	\$3.0
Secret Service	–	\$30.0	–	\$30.0
Customs and Border Protection	–	\$428.0	–	\$333.0
Immigration and Customs	–	\$185.0	–	\$170.0
Transportation Security Administration	–	\$390.0	–	\$665.0
Federal Law Enforcement Training Center	–	\$2.0	–	\$2.0
Office of Domestic Preparedness	–	\$2,200.0	\$2,200.0	\$2,230.0
Coast Guard	–	\$230.0	\$580.0	\$228.0
Emergency Preparedness & Response	–	\$45.0	–	\$45.0
FEMA Disaster Relief	–	–	\$109.5	\$54.8
Information Analysis & Infrastructure Protection	–	\$10.0	–	\$0.0
Total Department of Homeland Security	\$2,000.0	\$3,521.0	\$2,889.5	\$3,760.8
Dept of Justice:				
Counterterrorism Fund	\$500.0	\$50.0	–	\$20.0
Salaries and Expenses	–	\$5.0	–	\$5.0
Detention Trustee	–	\$15.0	\$45.0	\$40.0
Inspector General	–	\$2.5	–	\$2.5
US Marshals	–	\$26.1	–	\$8.0
FBI	–	\$398.9	\$73.0	\$367.2
Interagency Law Enforcement Support	–	–	\$72.0	\$0.0
State & Local Law Enforcement Assistance	–	–	\$91.0	\$0.0
Community Oriented Policing Services	–	–	\$114.5	\$54.8
Total, Department of Justice	\$500.0	\$497.5	\$395.5	\$497.5
Supreme Court	–	\$1.5	–	\$1.5
US Court of Appeals	–	\$1.0	–	\$1.0
US Court of International Trade	–	\$0.1	–	\$0.1
Exec Office of President: Emergency Fund	\$250.0	–	–	\$0.0
Legislative Branch Emergency Response Fund:				

	Request	House	Senate	Enacted
Salaries and Expenses	–	\$11.0	–	\$11.0
Architect of the Capitol	–	–	\$34.4	\$23.8
Architect of the Capitol, Capitol Police Buildings	–	\$63.8	\$40.1	\$40.1
Capitol Police	–	\$37.8	\$38.2	\$37.8
Office of Compliance	–	\$0.1	\$0.1	\$0.1
Library of Congress	–	\$5.5	\$5.5	\$5.5
Congressional Research Service	–	\$1.9	\$1.9	\$1.9
General Accounting Office	–	\$4.9	\$4.8	\$4.8
Total Legislative Branch Emergency Fund	\$125.0	\$125.0	\$125.0	\$125.0
Dept of Transportation, Maritime Administration	–	–	\$50.0	\$25.0
Dept of Agriculture Research Service	–	–	\$98.0	\$110.0
Corps of Engineers, infrastructure security	–	–	\$29.0	\$39.0
Dept of Interior, Bureau of Reclamation	–	–	\$25.0	\$25.0
Dept of Energy, nuclear facility security	–	–	\$11.0	\$11.0
Dept of Energy, Natl Nuclear Security Admin	–	–	\$61.0	\$67.0
Dept of Energy, Defense Nuclear Proliferation	–	–	\$150.0	\$148.0
Dept of Energy, Defense Environment Rest.	–	–	\$6.0	\$6.0
Dept of Energy, Other Defense Activities	–	–	\$18.0	\$4.0
HHS, Public Health and Social Services	–	\$94.0	–	\$100.0
HHS, compensation for smallpox volunteers	–	\$50.0	\$35.0	\$42.0
HHS, grants to States for smallpox inoculation	–	–	\$105.0	\$0.0
National Commission on Terrorist Attacks	–	–	\$11.0	\$11.0
TOTAL, Homeland Security	\$4,375.0	\$4,290.1	\$5,144.0	\$5,123.9

^a Included under Dept. of Homeland Security items below.

Support to State and Local Governments for Terrorism Prevention and Security Enhancements⁴²

The Bush Administration's request for FY2003 supplemental appropriations included \$2 billion for the ODP. These funds would be distributed to state and local governments "... to support federally-coordinated terrorism prevention and security enhancements at this time of heightened threat, and terrorism preparedness for first responders."⁴³ The Department of Homeland Security projected that \$1.5 billion would go to the ODP formula grant program, \$450 million to critical infrastructure security grants, and \$50 million to high threat urban areas.⁴⁴ The Administration's request for \$450 million for critical infrastructure security grants contained at least one significant change to the current structure of federal first responder programs. The request proposed allowing recipients to use these funds for personnel overtime expenses, an activity not currently authorized in existing terrorism preparedness programs.

Congressional Action. The House, in H.R. 1559, provided a total of \$2.2 billion to ODP, \$200 million above the Administration request, specifically providing the following amounts.⁴⁵

- \$1.5 billion to ODP's formula grant program, and
- \$700 million "... to address security requirements in high threat, high density urban areas with critical infrastructure."⁴⁶

In S. 762, the Senate Appropriations Committee recommended \$2 billion for ODP of which \$1.42 billion would have gone to the formula grant program, \$450 million to critical infrastructure security, \$100 million to high threat urban areas, and \$30 million to technical assistance.⁴⁷ The full Senate passed an amendment, however, that added an additional \$200 million and allocated more funding to high threat urban areas.⁴⁸ The Senate also added additional funding to FEMA and the

⁴² This section was prepared by Ben Canada, Analyst in American National Government, Government and Finance Division.

⁴³ OMB, *FY2003 Request for Supplemental Appropriations*.

⁴⁴ U.S. Department of Homeland Security, "FY2003 Supplemental Budget Request Fact Sheet," March 25, 2003. Available at: [<http://www.dhs.gov/dhspublic/display?content=533>].

⁴⁵ At least one amendment proposing additional funding for ODP programs was introduced but not passed (H.Amdt. 30 to H.R. 1559).

⁴⁶ House Appropriations Committee, "Full Committee Unanimously Reports Wartime Supplemental," press release, April 1, 2003. See the House Appropriations Committee Web site [http://www.house.gov/appropriations/news/108_1/04warsupsum.htm], visited April 3, 2003.

⁴⁷ U.S. Congress, Senate Committee on Appropriations, Report to Accompany S. 762, 108th Cong., 1st sess., S.Rept. 108-33 (Washington: GPO, 2003), pp. 23-24.

⁴⁸ S.Amdt. 515 to S. 762, enacted April 3, 2003. The Senate also considered, but did not pass, at least one amendment to provide an additional \$2.33 billion for first responder (continued...)

Community-Oriented Policing Services program (Justice Department) for interoperable communications. S. 762, as passed by the Senate, provided a total of \$2.2 billion for ODP programs, matching the House amount. The Senate-passed bill provided:

- \$1.27 billion for the formula grant program,
- \$300 million to critical infrastructure protection,
- \$600 million to high threat urban areas,
- \$30 million for technical assistance and other activities, and
- \$219 million for interoperable communications (to FEMA and COPS).

The enacted supplemental (P.L. 108-11) provides \$2.23 billion for ODP, which is \$230 million more than the Administration request. In addition, the conference provided roughly \$109.5 million for interoperable communications programs. Total supplemental funding for first responder preparedness comes to roughly \$2.34 billion, which, when added to the FY2003 regular appropriation of \$2.045 billion, comes to a FY2003 grant total of \$4.385 billion. Specifically, the conference agreement provides the following amounts:

- \$1.3 billion for ODP's formula grant programs (80% must go to localities),
- \$200 million for critical infrastructure protection (no less than 50% going to localities),
- \$700 million to high threat urban areas,
- \$30 million for technical assistance, and
- \$109.5 million interoperable communications (FEMA and COPS)⁴⁹

A number of observers have argued that the current level of federal assistance for first responders is insufficient and should be increased above current funding levels. Other observers, however, point to evidence of slow state and local utilization of federal grants as an indication that additional funding at this time is not necessary.⁵⁰ Still others have suggested that ODP's distribution formula should be adjusted to increase assistance to areas perceived to be high-risk.⁵¹ The conference agreement addressed a number of these concerns. It instructed ODP to distribute formula grant funds to states within 60 days of enactment, and further instructed states to distribute 80% of funds to localities within 45 days of receipt. Similar requirements for distribution were applied to the other ODP assistance programs. Conferees also adopted several reporting requirements in the Senate bill (S. 762).

⁴⁸ (...continued)
preparedness (S. 514 to S. 762).

⁴⁹ House Appropriations Committee, "Highlights of Wartime Supplemental Conference report," press release, April 12, 2003. Available at: [http://www.house.gov/appropriations/news/108_1/04warsupconf.htm], visited April 14, 2003.

⁵⁰ Sam Dealey, "Anti-terror Funds Left Unspent," *The Hill*, March 26, 2003, p. 1.

⁵¹ Dale Russakoff and Rene Sanchez, "Homeland Burden Grows for Cash-Strapped States, Cities," *Washington Post*, Apr. 1, 2003, p. A1.

These include reports on risk assessments of high-threat urban areas, cost of securing such areas, appropriation federal share of security costs, and proposals for new distribution formulas.⁵² Conferees also required reports on overtime accountability and a listing of all federal terrorism preparedness grant programs administered by DHS.⁵³

Departments of Justice and Homeland Security Counterterrorism Funds⁵⁴

The Administration's FY2003 supplemental request included \$500 million to reimburse Department of Justice organizations for the following purposes: (1) to reestablish operational capabilities that were lost or weakened as a result of a terrorist attack; and (2) to pursue counterterrorism investigations, including the payment of rewards. The request for this account includes language that would authorize the use of such funding to reimburse any federal agency for costs related to detaining a terrorist suspect as well.

For the Department of Homeland Security's Counterterrorism Fund, the Administration's FY2003 supplemental request included \$1.5 billion to reimburse any homeland security organization for counterterrorism investigations and operations, including operations in support of the Department of Defense. Among other things, such operations could include (1) increasing border and maritime security; (2) enhancing elements of the strategic national stockpile; (3) providing increased port security for military outloads; and (4) deploying various biological attack detection technologies, related countermeasures, and response assets.

Congressional Action. As reported by the Senate Appropriations Committee, S. 762 provided \$500 million, as requested, for the Department of Justice's Counterterrorism Fund. However, as part of an omnibus amendment proposed by Senator Stevens, the Senate voted to re-allocate these funds among several Department of Justice programs, including FBI salaries and construction, state and local law enforcement assistance, Community Oriented Policing Services, and interagency law enforcement support. The Stevens amendment also took \$109.5 million of the President's request for the Counterterrorism Fund and made it available for additional FEMA disaster relief operations. The House measure appropriated \$50 million for the Fund, and an additional \$450 million for several other Justice Department programs, including \$399 million for the FBI. For Homeland Security Counterterrorism Fund, the Senate recommended \$1.135 billion after shifting \$580 million for the Coast Guard to a separate account, but including \$215 million for the President's Emergency Response Fund. The President had proposed resources for the emergency fund under a separate line-item.

⁵² S.Rept. 108-33, pp. 23-24.

⁵³ H.Rept. 108-76, pp. 82-83.

⁵⁴ This section was prepared by William Krouse, Analyst in Social Legislation, Domestic Social Policy Division.

As enacted, H.R. 1559 combines approaches taken in the House and Senate bills of allocating most of the proposed \$500 million Department of Justice (DOJ) Counterterrorism Fund to specific accounts. The FBI receives \$367 million, close to the House recommendation, but Senate proposals for over \$160 million for state and local law enforcement and interagency law enforcement support were deleted. Similar to the Senate bill, the conference agreement provides additional funds for FEMA, although the \$55 million appropriation is less than half the amount recommended in S. 762.

Emergency Response Funds for the Executive and Legislative Branches

Beyond the additional resources for the Departments of Justice and Homeland Security to bolster their counterterrorism capabilities, the White House asked for a \$250 million fund that could be drawn upon to meet any emerging terrorist related threat across the entire federal government. Among any authorized activity, this highly flexible fund could be used to assist first responders and health care workers who have suffered adverse reactions from voluntary smallpox vaccinations.

The Administration also proposed a \$125 million emergency fund for the legislative branch to meet emerging terrorist-prevention needs.

Congressional Action. House and Senate bills split on the issue of a White House emergency response fund. S. 762 provided \$215 million within Department of Homeland Security funds, while the House did not include any resources for this purpose. As enacted, H.R. 1559 does not provide funding for a White House emergency response fund but includes \$150 million for the Department of Homeland Security's Counterterrorism Fund. These resources can be used to reimburse any Homeland Security organization for terrorism-related expenses. The conference appropriation further includes \$125 million for additional legislative branch security requirements, with specific allocations spread over a number of accounts, as illustrated in **Table 8**.

Aviation Industry Relief⁵⁵

The onset of the war in Iraq has dramatically effected the airline industry. Air travel in the short term has dropped approximately 10% according to the Air Transport Association (ATA). More worrisome for the airlines, advance bookings for the months ahead appear to be dropping approximately 30%. All of this is happening against the backdrop of the events of September 11th, which also had a huge negative impact on the industry. The airlines lost record amounts of money in 2002, following what had been the previous record loss in 2001.

Among major airlines, only Southwest was profitable in 2002, and Southwest is the only major carrier believed to have a chance at profitability in 2003. The industry's second largest airline, United, is operating in receivership and the

⁵⁵ This section was prepared by John W. Fisher, Specialist in Transportation.

possibility exists that other carriers could find themselves in this position in the near future. There is, therefore, considerable concern that the airline industry is likely to go through a period of major structural change.

After September 11, Congress and the Bush Administration moved swiftly to provide the airline industry with \$15 billion in federal financial support (Air Transportation Safety and System Stabilization Act (Stabilization Act), P.L. 107-42). The first \$5 billion provided direct aid to pay for industry losses associated with the results of the September 11th attacks. The vast majority of these funds have already been distributed to the airlines (a listing of airlines receiving funds is available from the Department of Transportation (DOT), [<http://ostpxweb.dot.gov/aviation/>]). A second source of funding, access to \$10 billion in government backed loans, required approval by the newly created Air Transportation Stabilization Board (ATSB). Thirteen airlines applied for the loan program. The majority received some form of assistance, but the largest single applicant, United, was denied a loan. Of the \$10 billion authorized by this program only about \$1.5 billion has been committed.

In the FY2003 Emergency Supplemental, Congress again proposed providing some short term relief to the airline industry. The House-approved package totaled \$3.2 billion in direct assistance while the Senate proposed \$3.5 billion, as estimated by CBO. Both bills had the same intent, but there were significant differences in how aid would be provided. Both the House and the Senate measures included significant funding for security costs. In addition, S. 762 would provide a tax holiday for collections of the existing \$2.50 per flight segment security fee charged to airline passengers. The Senate measure would also extend to the end of 2004 war risk insurance provisions in existing legislation that expire at the end of this year. In addition, the Senate bill provided additional unemployment insurance to displaced airline industry employees. Both bills had provisions that would limit airline industry executive compensation.

The enacted emergency supplemental includes a relief package estimated by CBO as totaling \$3.1 billion for FY2003. Conferees adopted the Senate approach of direct appropriations plus authority to temporarily suspend fees, and extend unemployment and war risk insurance. As calculated by CBO, the airline industry relief package breaks out as follows for FY2003:

- Grants to U.S. flag carriers for aviation security costs: \$2.296 billion
- Compensation to air carriers for secure cockpit doors: \$100 million
- Suspension of fees, June 1 to Sept. 30, 2003: \$570 million⁵⁶
- Extension of unemployment benefits: \$125 million⁵⁶

⁵⁶ OMB further estimates that the costs (budget authority) in FY2004 of suspending fees and extending unemployment benefits will be \$130 million and \$135 million, respectively.