

SA 3874. Mr. MCCONNELL (for himself, Mr. LIEBERMAN, Mr. INOUE, Mr. STEVENS, Mr. COCHRAN, and Mr. WARNER) proposed an amendment to the bill H.R. 2764, making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes; as follows:

Strike Division L and insert the following:

DIVISION L--SUPPLEMENTAL APPROPRIATIONS, DEFENSE

TITLE I--MILITARY PERSONNEL

MILIARY PERSONNEL

Military Personnel, Army

For an additional amount for ``Military Personnel, Army", \$782,500,000.

Military Personnel, Navy

For an additional amount for ``Military Personnel, Navy", \$95,624,000.

Military Personnel, Marine Corps

For an additional amount for ``Military Personnel, Marine Corps", \$56,050,000.

Military Personnel, Air Force

For an additional amount for ``Military Personnel, Air Force", \$138,037,000.

TITLE II--OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For an additional amount for ``Operation and Maintenance, Army", \$35,152,370,000.

Operation and Maintenance, Navy

(including transfers of funds)

For an additional amount for ``Operation and Maintenance, Navy", \$3,664,000,000: *Provided*, That up to \$110,000,000 shall be transferred to the Coast Guard ``Operating Expenses" account.

Operation and Maintenance, Marine Corps

For an additional amount for ``Operation and Maintenance, Marine Corps", \$3,965,638,000.

Operation and Maintenance, Air Force

For an additional amount for ``Operation and Maintenance, Air Force", \$4,778,000,000.

Operation and Maintenance, Defense-Wide

For an additional amount for ``Operation and Maintenance, Defense-Wide", \$2,116,950,000, of which up to \$300,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

Operation and Maintenance, Army Reserve

For an additional amount for ``Operation and Maintenance, Army Reserve", \$77,736,000.

Operation and Maintenance, Navy Reserve

For an additional amount for ``Operation and Maintenance, Navy Reserve", \$41,657,000.

Operation and Maintenance, Marine Corps Reserve

For an additional amount for ``Operation and Maintenance, Marine Corps Reserve", \$46,153,000.

Operations and Maintenance, Air Force Reserve

For an additional amount for ``Operation and Maintenance, Air Force Reserve", \$12,133,000.

Operation and Maintenance, Army National Guard

For an additional amount for ``Operation and Maintenance, Army National Guard", \$327,000,000.

Operation and Maintenance, Air National Guard

For an additional amount for ``Operation and Maintenance, Air National Guard", \$51,634,000.

Iraq Freedom Fund

(including transfer of funds)

For an additional amount for ``Iraq Freedom Fund", \$3,747,327,000, to remain available for transfer until September 30, 2009, only to support operations in Iraq or Afghanistan: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Afghanistan Security Forces Fund

(including transfer of funds)

For the ``Afghanistan Security Forces Fund", \$1,350,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Office of Security Cooperation-Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and

maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than five days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Iraq Security Forces Fund

(including transfer of funds)

For the ``Iraq Security Forces Fund'', \$1,500,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition

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Command-Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of

Defense shall, not fewer than five days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Joint Improvised Explosive Device Defeat Fund

(including transfer of funds)

For the ``Joint Improvised Explosive Device Defeat Fund'', \$4,269,000,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further*, That within 60 days of the enactment of this Act, a plan for the intended management and use of the Fund is provided to the congressional defense committees: *Provided further*, That the Secretary of Defense shall submit a report not later than 30 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of this Fund: *Provided further*, That the Secretary of Defense may transfer funds provided herein to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon determination that all or part of the funds so transferred from this appropriation are not necessary for the purpose provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

TITLE III--PROCUREMENT

PROCUREMENT

Aircraft Procurement, Army

For an additional amount for ``Aircraft Procurement, Army'', \$943,600,000, to remain available for obligation until September 30, 2010.

Procurement of Weapons and Tracked Combat Vehicles, Army

For an additional amount for ``Procurement of Weapons and Tracked Combat Vehicles, Army", \$1,429,445,000, to remain available for obligation until September 30, 2010.

Procurement of Ammunition, Army

For an additional amount for ``Procurement of Ammunition, Army", \$154,000,000, to remain available for obligation until September 30, 2010.

Other Procurement, Army

For an additional amount for ``Other Procurement, Army", \$2,027,800,000, to remain available for obligation until September 30, 2010.

Aircraft Procurement, Navy

For an additional amount for ``Aircraft Procurement, Navy", \$48,500,000, to remain available for obligation until September 30, 2010.

Procurement of Ammunition, Navy and Marine Corps

For an additional amount for ``Procurement of Ammunition, Navy and Marine Corps", \$304,945,000, to remain available for obligation until September 30, 2010.

Other Procurement, Navy

For an additional amount for ``Other Procurement, Navy", \$91,481,000, to remain available for obligation until September 30, 2010.

Procurement, Marine Corps

For an additional amount for ``Procurement, Marine Corps", \$703,250,000, to remain available for obligation until September 30, 2010.

Aircraft Procurement, Air Force

For an additional amount for ``Aircraft Procurement, Air Force", \$51,400,000, to remain available for obligation until September 30, 2010.

Other Procurement, Air Force

For an additional amount for ``Other Procurement, Air Force", \$30,725,000, to remain available for obligation until September 30, 2010.

Procurement, Defense-Wide

For an additional amount for ``Procurement, Defense-Wide", \$274,743,000, to remain available for obligation until September 30, 2010.

TITLE IV--REVOLVING AND MANAGEMENT FUNDS

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For an additional amount of ``Defense Working Capital Funds", \$1,000,000,000, to remain available for obligation until September 30, 2010.

TITLE V--OTHER DEPARTMENT OF DEFENSE PROGRAMS

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For an additional amount for ``Defense Health Program", \$575,701,000 for Operation and maintenance.

Drug Interdiction and Counter-Drug Activities, Defense

For an additional amount for ``Drug Interdiction and Counter-Drug Activities, Defense", \$192,601,000.

TITLE VI--GENERAL PROVISIONS

GENERAL PROVISIONS

Sec. 601. Appropriations provided in this division are available for obligation until September 30, 2008, unless otherwise so provided in this division.

Sec. 602. Notwithstanding any other provision of law or of this division, funds made available in this division are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2008.

(TRANSFER OF FUNDS)

Sec. 603. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to \$4,000,000,000 of the funds made available to the Department of Defense in this division: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

Sec. 604. Funds appropriated in this division, or made available by the transfer of funds in or pursuant to this division, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

Sec. 605. None of the funds provided in this division may be used to finance programs or activities denied by Congress in fiscal years 2007 or 2008 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

Sec. 606. (a) Availability of Funds for CERP.--From funds made available in this division to the Department of Defense, not to exceed \$500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) Quarterly Reports.--Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2008), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

Sec. 607. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

Sec. 608. During fiscal year 2008, supervision and administration costs associated with projects carried out with funds appropriated to "Afghanistan Security Forces Fund" or "Iraq Security Forces Fund" in this division may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

Sec. 609. (a) Reports on Progress Toward Stability in Iraq.--Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2008, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) *Scope of Reports.*--Each report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) *Specific Elements.*--In specific, each report shall require, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including--

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are--

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including--

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2008.

Sec. 610. Each amount appropriated or otherwise made available in this division is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Sec. 611. None of the funds appropriated or otherwise made available by this division may be obligated or expended to provide award fees to any defense contractor for performance that does not meet the requirements of the contract.

Sec. 612. No funds appropriated or otherwise made available by this division may be used by the Government of the United States to enter into an agreement with the Government of Iraq that would subject members of the Armed Forces of the United States to the jurisdiction of Iraq criminal courts or punishment under Iraq law.

Sec. 613. Notwithstanding any other provision of law, the Secretary of the Army may reimburse a member for expenses incurred by the member or family member when such expenses are otherwise not reimbursable under law: *Provided*, That such expenses must have been incurred in good faith as a direct consequence of reasonable preparation for, or execution of, military orders: *Provided further*, That reimbursement under this section shall be allowed only in situations wherein other authorities are insufficient to remedy a hardship determined by the Secretary, and only when the Secretary determines that reimbursement of the expense is in the best interest of the member and the United States.

Sec. 614. In this division, the term ``congressional defense committees" means--

- (1) the Committees on Armed Services and Appropriations of the Senate; and
- (2) the Committees on Armed Services and Appropriations of the House of Representatives.

Sec. 615. This division may be cited as the ``Emergency Supplemental Appropriations Act for Defense, 2008".