



SENATE REPUBLICAN

POLICY COMMITTEE

## Legislative Notice

No. 17

May 24, 2007

# **H.R. 2206 – U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007**

Calendar No. 146

*At press time, it was anticipated that the House later today would return H.R.2206 to the Senate with an amendment*

### **Noteworthy**

- The Senate is likely to consider H.R. 2206 later today once that bill is received from the House. Recall that the Senate passed H.R. 2206 on May 17 with placeholder language (a sense of the Congress resolution) and requested a conference. Instead, the House was expected to amend the Senate-passed bill. That is the language which is detailed in this Legislative Notice.
- H.R. 2206 is the successor bill to H.R. 1591, which the President vetoed on May 1.
- H.R. 2206 *does not* contain provisions constraining the ability of the President as Commander-in-Chief to direct the use of force in Iraq, and does not provide a date certain for beginning the withdrawal of U.S. forces from Iraq. It *does* contain language related to benchmarks for the Iraqi government to meet and conditions U.S. strategy in Iraq on progress in meeting those benchmarks.
- In all, it was expected that the bill (once passed in the House) will provide \$119.98 billion in discretionary funding. In comparison, the President requested \$103.02 billion.
- The bill provides a total of \$102.96 billion in funding for the war against Islamist terrorists, which is nearly \$3.35 billion more than requested.
- The bill includes over \$17 billion in unrequested items. Among them are SCHIP, Wildlands Fire Management, Secure Rural Schools, and \$2.87 billion in additional Katrina funding.
- H.R. 2206 contains a provision that raises the minimum wage over 26 months to \$7.25 an hour (but makes additional revisions from the earlier Senate-passed version).
- H.R. 2206 also contains provisions that modify the Pension Protection Act of 2006. These provisions did not appear in any earlier version of the supplemental.
- At press time, no Statement of Administration Policy on the bill as amended by the House had been received. The President expressed support for the bill at a press conference on May 24, 2007.

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## **Introduction**

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Approximately 110 days after President Bush submitted his request for emergency supplemental funding for U.S. troops to execute the war against Islamist terrorists, the Congressional Democratic leadership has finally managed to deliver a bill that funds the troops without setting an arbitrary withdrawal date from Iraq, or otherwise constraining the ability of the Commander-in-Chief to direct the use of force in Iraq.

The Democrats used that 110-day period to pass essentially the President's request, along with approximately an additional \$17.15 billion in unrequested, non-emergency domestic spending. Moreover, this bill authorizes an increase in the minimum wage.

In the meantime, during this period, due to lack of funding, the mission in Iraq has suffered, the Army was forced to take draconian measures impacting readiness, and imposing hardships on soldiers and their families, and the ability to purchase protective equipment for U.S. troops was hindered.

With the Departmental reprogrammings that have been required thus far, along with the passage of this bill, the war will be funded through the end of this fiscal year.

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## **Highlights**

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### **Iraq Benchmark Provisions**

Chapter Three of Title I of the War Supplemental outlines various benchmarks, demands reports on Iraq's progress in meeting those benchmarks, and conditions U.S. strategy on such progress. These provisions, namely the benchmarks, mirror Warner Amendment 1134 to WRDA, including the waiver provisions, which was subject to a vote on May 16, 2007.

- Section 1314 opens by making various findings regarding progress in Iraq, namely that:
  - Iraqis must reach political and economic settlements in order to achieve reconciliation, for there is no military solution;
  - The Iraq Study Group issued a valuable report, suggesting
    - a comprehensive strategy that includes new and enhanced diplomatic and political efforts in Iraq and the region, and
    - a change in the primary mission of U.S. forces in Iraq, that will enable the United States to begin to move its combat forces out of Iraq responsibly;
  - The President said on January 10, 2007, "I've made it clear to the Prime Minister and Iraq's other leaders that America's commitment is not open-ended"; and
  - President Bush said, on January 10, 2007, "America will change our approach to help the Iraqi government as it works to meet these benchmarks."
  
- Section 1314 then provides that the U.S. strategy in Iraq shall be conditioned on the Iraqi government meeting a set of outlined benchmarks:

- forming a Constitutional Review Committee and then completing the Constitutional review;
  - enacting and implementing legislation on
    - de-Baathification
    - equitable distribution of oil resources
    - procedures to form semi-autonomous regions
    - local elections, including a date for provincial elections
    - amnesty<sup>1</sup>
    - a strong militia disarmament program
  - providing three trained and ready Iraqi brigades to support Baghdad operations;
  - providing Iraqi commanders all authorities to execute the Baghdad Security Plan without political intervention, including the authority to pursue all extremists, regardless of sect;
  - ensuring that the Iraqi Security Forces are providing even-handed enforcement of the law;
  - reducing the level of sectarian violence in Iraq and eliminating militia control of local security;
  - establishing all of the planned joint security stations in neighborhoods across Baghdad;
  - increasing the number of Iraqi security forces units capable of operating independently;
  - ensuring that the rights of minority political parties in the Iraqi legislature are protected; and
  - spending \$10 billion in Iraqi revenues for reconstruction projects.
- Section 1314 then requires the President to submit various reports to Congress on the matter, first by July 15 of this year, and then September 15, most notably addressing:
    - If the President’s assessment of any of the specific benchmarks established is unsatisfactory, the President shall include a description of necessary revisions to strategy in Iraq.
    - The President is to report on the advisability of implementing such aspects of the bipartisan Iraq Study Group, as he deems appropriate.
  - Section 1314(c) then conditions the obligation of certain foreign assistance to the government of Iraq on its progress in meeting such benchmarks. The section provides that no “Economic Support Funds” may be made available for Iraq until the President certifies that “Iraq is making progress on each of the benchmarks” provided.
    - The section authorizes the President to waive this restriction if he provides “a detailed justification for the waiver, which shall include a detailed report describing the actions being taken by the United States to bring the Iraqi government into compliance with the benchmarks set forth.”
  - Section 1314(d) provides that the President shall direct the redeployment of U.S. forces from Iraq if “the Iraqi government, acting in strict accordance with its respective powers given by the Iraqi Constitution, reaches a consensus as recited in a resolution, directing a redeployment of U.S. forces.”
  - Section 1314(e) then requires various independent assessments of certain matters. It directs:
    - the Comptroller General to provide a report on the status of meeting the benchmarks; and
    - the Department of Defense to commission an independent, private-sector, 501(c)(3) entity to prepare an assessment of the readiness, training, equipping, command, control, and other

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<sup>1</sup> The Iraq Study Group describes initiatives to provide amnesty for those who have fought against the government, Iraq Study Group Final Report, p. 18; and recommends that “[a]mnesty proposals must be far-reaching, . . . finding ways and means to reconcile . . . former bitter enemies,” Iraq Study Group Final Report, p. 66 (Recommendation 31).

capabilities of the Iraqi Security Forces; along with an assessment of the likelihood the continued support of U.S. troops will contribute to the readiness of the Iraqi forces to:

- maintain the territorial integrity of Iraq,
- deny international terrorists a safe haven,
- bring greater security to Iraq's 18 provinces in the next 12-18 months, and
- bring an end to sectarian violence to achieve national reconciliation.

## Bill Provisions

*Note: This section describes H.R. 2206 as anticipated to be engrossed, and also includes a description of language, for comparison, from the bill as it passed the Senate (in Arial font and bracketed).*

### **Titles I and III– Global War on Terror Supplemental Appropriations**

#### **Chapter 1: Subcommittee on Agriculture, Rural Development, and Related Agencies**

**Foreign Agricultural Service:** Provides \$450.0 million for Public Law 480 Title II Grants, which is \$100.0 million above the President's request. This program uses U.S. food to feed and improve the well-being of hungry populations in poor countries.

#### **Chapter 2: Subcommittee on Commerce, Science, Justice**

**Legal Activities:** Provides \$16.6 million for General Legal Activities and U.S. Attorneys associated with national security investigations and prosecutions, which is \$7.5 million above the President's request.

**United States Marshals Service:** Provides \$6.5 million, which is \$14.9 million above the President's request.

**National Security Division:** Provides \$1.7 million for the National Security Division to support investigations and prosecutions related to the global war on terror, which is equal to the President's request.

**Federal Bureau of Investigation (FBI):** Provides \$258 million, which is \$140 million above the President's request. Of this funding, \$10.0 million is to implement corrective actions in response to the findings and recommendations in the Department of Justice Office of Inspector General report titled, "A Review of the Federal Bureau of Investigation's Use of National Security Letters."

**Drug Enforcement Administration (DEA):** Provides \$12.2 million to hire additional DEA staff to support narco-terrorism investigations, and to attack the financial infrastructure of drug-trafficking organizations operating in Afghanistan, which is \$7.7 million above the President's request.

**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF):** Provides \$4.0 million for ATF for costs of operations in Iraq, which is equal to the President's request.

**Federal Prison System:** Provides \$17.0 million to monitor incarcerated terrorists, collect intelligence, and coordinate with and disseminate relevant information to other law enforcement agencies, which is equal to the President’s request.

### Chapter 3: Subcommittee on Defense

The Conference Report provides \$95.53 billion to the Department of Defense for operations related to the war against Islamist terrorists.

**Military Personnel:** Provides \$13.51 billion for the Department’s Military Personnel, which is \$1.16 billion above the President’s request.

<b>Military Personnel (in millions of dollars)</b>	<b>Request</b>	<b>H.R. 2206</b>
Army	8,510.27	8,853.35
Navy	692.13	1,100.41
Marine Corps	1,386.87	1,495.83
Air Force	1,101.29	1,218.59
Army Reserve	147.24	147.24
Navy Reserve	72.80	86.02
Marine Corps Reserve	0.00	5.66
Air Force Reserve	3.00	11.57
Army National Guard	436.03	545.29
Air Force National Guard	0.00	44.03
	\$12,349.62	\$13,507.99

**Operation and Maintenance:** Provides \$50.04 billion for Operation and Maintenance accounts in support of Operation Iraqi Freedom and Operation Enduring Freedom, which is \$281.4 million above the President’s request. This spending provides funds for the incremental cost of ground operations, flying hours, logistics support, fuel, travel, and transportation. The majority of the “surge” costs are operation and maintenance costs.

<b>Operations and Maintenance (in millions of dollars)</b>	<b>Request</b>	<b>H.R. 2206</b>
Army	20,423.38	20,373.38
Navy	5,040.48	4,676.67
Marine Corps	1,401.59	1,146.59
Air Force	7,035.88	6,650.88
Defense-wide	3,279.31	2,714.49
Army Reserve	74.05	74.05
Navy Reserve	111.07	111.07
Marine Corps Reserve	13.59	13.59
Air Force Reserve	10.16	10.16
Army National Guard	83.57	83.57
Air Force National Guard	38.43	38.43

Afghanistan Security Forces Fund	5,906.40	5,906.40
Iraq Security Forces Fund	3,842.30	3,842.30
Iraq Freedom Fund	455.60	355.60
Joint IED Defeat Fund	2,432.80	2,432.80
Strategic Reserve Readiness Fund	0.00	1,615.00
	\$50,148.61	\$50,044.98

Within the Operations and Maintenance, Defense-Wide account, an amount, not more than \$25 million, may be used for the Combatant Commander Initiative Fund.

**Procurement:** Provides \$25.59 billion for procurement in various procurement accounts, which is \$775.7 million above the President’s request. This spending provides funds for force protection equipment, the restoration of equipment lost in operations, the recapitalization of equipment used in operations, and the equipping of units supporting upcoming rotations.

<b>Procurement (in millions of dollars)</b>	<b>Request</b>	<b>H.R. 2206</b>
Army Aircraft	627.75	619.75
Army Missile	160.17	111.47
Army Weapons and Tracked Combat Vehicles	3,502.32	3,404.32
Army Ammunition	681.50	681.50
Army Other	10,946.69	11,076.14
Navy Aircraft	730.71	1,090.29
Navy Weapons	171.81	163.81
Navy and Marine Corps Ammunition	159.83	159.83
Navy Other	745.43	748.75
Marine Corps Procurement	2,055.72	2,252.75
Air Force Aircraft	1,726.34	2,106.47
Air Force Missile	140.30	94.90
Air Force Ammunition	95.80	6.00
Air Force Other	2,092.75	2,096.20
Defense-wide	979.38	980.05
National Guard and Reserve Equipment	0.00	0.00
	\$24,816.49	\$25,592.22

The Conference Report recommends \$3.03 billion for the mine resistant ambush protected vehicle (MRAP), which is \$1.2 billion more than the President’s request.

**Research, Development, Test and Evaluation:** Provides \$1.10 billion in various research, development, test, and evaluation accounts, which is \$349.0 million below the President’s request.

This spending provides funds that support Army modularity, force protection, equipment improvements, and classified activities.

<b>Research and Development (in millions of dollars)</b>	<b>Request</b>	<b>H.R. 2206</b>
Army	115.98	100.01
Navy	460.18	298.72
Air Force	220.72	187.18
Defense-wide	650.86	512.80
	\$1,447.74	\$1,098.71

**Revolving and Management Funds:** Provides \$1.12 billion for Revolving and Management Funds, which is \$200 million below the President’s request.

**Other Department of Defense Programs:** Provides \$2.72 billion for a range of Department programs, which is \$800 million above the President’s request. This funding includes: \$3.00 billion for the Defense Health Program and \$254.7 million for Drug Interdiction and Counter-Drug Activities.

**Related Agency:** Provides \$71.7 million for the Intelligence Community Management Account, which is \$5.0 million above the President’s request and \$14.3 million above the House-passed bill.

**General Provisions**

- Section 1302 provides DoD with general transfer authority of \$3.5 billion.
- CERP Authorities: Section 1307 provides up to \$456.4 million for the Commander’s Emergency Response Program in Iraq and Afghanistan.

**Other General Provisions**

- Section 3301 provides that no funds may be expended to establish a permanent military base in Iraq, or exercise control over any oil resource of Iraq.
- Section 3302 provides that no funds may be expended in contravention of the various laws and regulations implementing the United Nations Convention Against Torture, including the Detainee Treatment Act.
- Section 3303 directs various elements of the Administration to provide reports every 90 days on the “individual transition readiness assessments by unit of Iraq and Afghan security forces,” and on the proposed use, on a project-by-project basis, of the funds provided under the heading of “Iraq Security Forces Fund” and “Afghan Security Forces Fund.”

- Section 3305 restricts the use of operation and maintenance funds, providing that no more than 85 percent of them may be obligated until the Secretary of Defense submits a detailed report on the use of service contracts in Iraq and Afghanistan.
- Section 3306 amends current law to allow servicemembers to designate a portion of their death gratuity to someone other than their next of kin. This provision sunsets September 30, 2007.
- Section 3307 directs the Secretary of Defense to inspect military medical treatment and housing facilities and complete a report on the matter.
- Section 3311 makes a finding that “United States military units should not enter into combat unless they are fully capable of performing their assigned mission.”

## **Chapter 4: Subcommittee on Energy and Water Development, and Related Agencies**

**Atomic Energy Defense Activities:** Provides \$135.0 million for the National Nuclear Security Administration for Defense Nuclear Nonproliferation activities, which is \$72.0 million above the President’s request.

## **Chapter 5: Subcommittee on Homeland Security**

**Analysis and Operations:** Provides \$8.0 million to support the State and Local Fusion Center program. The President made no request for this account.

**Air and Marine Interdiction:** Provides \$75.0 million for air and marine interdiction, operations, maintenance, and procurement. The President made no request for this account.

**U.S. Customs and Border Protection (CBP):** Provides \$75.0 million for Customs and Border Protection. The President made no request for this account.

**Immigration and Customs Enforcement (ICE):** Provides \$6.0 million for salaries and expenses for the Immigration and Customs Enforcement. The President did not request such funding.

**Transportation Security Administration (TSA):** Provides \$390.0 million for TSA. The President did not request such funding.

**Federal Air Marshals:** Provides \$5.0 million for Federal air marshals. The President did not request such funding.

**Preparedness, Infrastructure Protection, and Information Security:** Provides \$24.0 million for ensuring that chemical facilities complete and submit vulnerability assessments. The President did not request such funding.

**Health Affairs:** Provides \$8.0 million for health affairs. The President did not request such funding. Of this funding, \$5.5 million is for nuclear event public health assessment and planning.



**FEMA**: Provides \$311.0 million. Included in these funds is: \$247.0 million for state and local programs and \$50.0 million for Emergency Management Performance Grants to assist State and local governments in updating emergency plans.

**United States Citizenship and Immigration Services (CIS)**: Provides \$8.0 million for CIS. The President did not request such funding.

**Science and Technology**: Provides \$5.0 million for Science and Technology for research into improved technology to protect aircraft from explosives and other harmful materials within air cargo. The President did not request such funding.

**Domestic Nuclear Detection Office (DNDO)**: Provides \$135.0 million for DNDO. Of this amount, \$100.0 million is for radiation portal monitors and \$35.0 million for research. The President did not request such funding.

## **Chapter 6: Subcommittee on the Legislative Branch**

**Salaries and Expenses**: Provides \$6.4 million for the House of Representatives for business continuity and disaster recovery.

**Government Accountability Office (GAO)**: Provides \$374,000 to support an ongoing presence in Iraq by the GAO. The President did not request such funding.

## **Chapter 7: Subcommittee on Military Construction and Veterans Affairs**

**Military Construction**: Provides \$1.67 billion, which is \$69.8 million below the President's request.

<b>Military Construction (in millions of dollars)</b>	<b>Request</b>	<b>H.R. 2206</b>
Army	1,289.29	1,255.89
Navy and Marine Corps	390.50	370.99
Air Force	60.20	43.30
	\$1,739.99	\$1,670.18

**Base Realignment and Closure Account, 2005**: Provides \$3.14 billion for the Base Closure Account 2005, which is equal to the President's request.

### **General Provisions:**

- Section 3701 prohibits the use of funds to close Walter Reed Army Medical Center until equivalent medical facilities at the Walter Reed National Military Medical Center at Bethesda Naval Medical Center and/or Fort Belvoir Community Hospital have been constructed and equipped.

- Section 3701 further provides that during this transition, WRAMC shall be adequately funded to ensure that the quality of care provided is not diminished.

## **Chapter 8: Subcommittee on State, Foreign Operations, and Related Programs**

**Diplomatic and Consular Programs:** Provides \$870.8 million for Diplomatic and Consular Programs for operations and security at U.S. embassies in Iraq, Afghanistan, and Sudan and global public diplomacy programs, which is \$42.2 million below the President's request. Of this funding, \$64.7 million is for world wide security upgrades.

**Office of Inspector General:** Provides \$35.0 million for operations of the Special Inspector General for Iraq Reconstruction and oversight operations of a Middle East Regional Office, which is equal to the President's request.

**Educational and Cultural Exchange Programs:** Provides \$20.0 million for educational and cultural exchange programs, which is equal to the President's request.

**International Organizations:** Provides \$50.0 million for Contributions to International Organizations. The President did not request such funding.

**Contributions for International Peacekeeping Activities:** Provides \$333.0 million for Contributions for International Peacekeeping Activities, which is \$133.0 million above the President's request.

**Broadcasting Board of Governors:** Provides \$10.0 million to expand broadcasting activities to the Middle East, which is equal to the President's request.

**Bilateral Economic Assistance:** Provides \$338.2 million, which is \$58.5 million above the President's request. Of this funding, \$161.0 million is to combat the spread of avian influenza and \$165.0 million for International Disaster and Famine Assistance programs.

**Other Bilateral Economic Assistance, Economic Support Fund:** Provides \$2.62 billion, which is \$552.8 million above the President's request. Of this funding, \$737.0 million is for Afghanistan; \$1.57 billion is for Iraq; \$295.0 million is for Lebanon.

**Assistance for Eastern Europe and the Baltic States:** Provides \$214.0 million for Eastern Europe and the Baltic States for assistance for Kosovo, which is \$65.0 million below the President's request.

**Democracy Fund:** Provides \$255.0 million for activities related to those funded through the Economic Support Fund and Assistance for Eastern Europe and Baltic States. The President did not request such funding.

**International Narcotics Control and Law Enforcement:** Provides \$210.0 million (not including a \$13.0 million rescission) for International Narcotics Control and Law Enforcement, which is \$50.0 million below the President's request.

**Migration and Refugee Assistance:** Provides \$130.5 million to respond to the urgent needs of refugees in Africa and elsewhere, which is \$69.0 million above the President's request.

**United States Emergency Refugee and Migration Assistance Fund:** Provides \$55.0 million for United States Emergency Refugee and Migration Assistance Fund, which is \$25.0 million above the President's request.

**Non-proliferation, Anti-terrorism, Demining, and Related Programs:** Provides \$57.5 million for Nonproliferation, Anti-terrorism, Demining, and Related Programs, which is \$30.0 million above the President's request.

**International Affairs Technical Assistance:** Provides \$2.8 million for International Affairs Technical Assistance for continued development of Iraq's electronic payments systems, which is equal to the President's request.

**Peacekeeping Operations:** Provides \$230.0 million in funds appropriated to the President for peacekeeping operations, which is \$48.0 million below the President's request.

## **Title IV – Additional Hurricane Disaster Relief And Recovery**

### **Chapter 1: Subcommittee on Agriculture, Rural Development, and Related Agencies**

**General Provision:** Section 2101 provides \$115.0 million by allowing the Secretary of Agriculture to continue to enroll eligible participants into the Emergency Forestry Conservation Reserve Program. The President did not request such funding.

### **Chapter 2: Subcommittee on Commerce, Justice, Science, and Related Agencies**

**State and Local Law Enforcement Assistance:** Provides \$50.0 million. The President did not request such funding. The bill does not include \$100.0 million in funding for the 2008 Presidential Candidate Nominating Conventions.

**National Oceanic and Atmospheric Administration (NOAA):** Provides \$110.0 million for fisheries disaster recovery efforts. The President did not request such funding.

**National Aeronautics and Space Administration:** Provides \$20.0 million for risk mitigation projects at the National Aeronautics and Space Administration. The President did not request such funding.

### **Chapter 3: Subcommittee on Energy and Water Development, and Related Agencies**

**Corps of Engineers Construction:** Provides \$25.3 million to accelerate the completion of unconstructed portions of projects related to interior drainage for the greater New Orleans metropolitan area. The President did not request such funding.

**Flood Control and Coastal Emergencies:** Provides \$1.41 billion for repairs to flood and storm damage reduction projects in Louisiana affected by Hurricanes Katrina and Rita, Pacific Coast storms of January, April, and November 2006, an earthquake that struck Hawaii in October 2006, and other emergency needs.

#### **Chapter 4: Subcommittee on Commerce, Justice, and Science**

**Disaster Loans Program:** Provides \$181.1 million in unobligated balances of the Disaster Loans Program. The bill also provides \$25.0 million in unobligated balances for businesses located in regions affected by the Gulf Coast hurricanes in 2005. The President did not request such funding.

#### **Chapter 5: Subcommittee on Homeland Security**

**FEMA Disaster Relief:** Provides \$4.11 billion to address the needs of communities impacted by Hurricanes Katrina and Rita, which is \$710.0 million above the President's request.

#### **Chapter 6: Subcommittee on Interior**

**Historic Preservation Fund:** Provides \$10.0 million for the Historic Preservation Fund to continue restoration efforts in Louisiana. The President did not request such funding.

#### **Chapter 7: Subcommittee on Labor, Health and Human Services, and Education**

**Higher Education:** Provides \$30.0 million to provide assistance to institutions of higher education that were forced to close, relocate, or significantly curtail activities due to the 2005 Gulf Coast hurricanes. The President did not request such funding.

**Higher Education Recovery:** Provides \$30.0 million for grants hurricane-impacted States and local educational agencies to build the capacity of public schools that were forced to close or suspend due to Hurricanes Katrina or Rita. The President did not request such funding.

#### **Chapter 8: Subcommittee on Transportation, Treasury, and General Government**

**Emergency Relief Program:** Provides \$871.0 million. The bill also includes language that rescinds unobligated funds from the federal aid for highways programs totaling \$871.0 million. The vetoed supplemental bill rescinded \$682.9 million. The President did not request such funding.

**Federal Transit Administration Formula Grants:** Provides \$35.0 million to cover emergency expenses associated with the continuation of transit services in communities affected by Hurricanes Katrina and Rita. The President did not request such funding.

**Housing and Urban Development (HUD) Office of Inspector General:** Provides \$7.0 million for HUD's Office of Inspector General. The President did not request such funding.

## **Chapter 9: Subcommittee on Military Construction and Veterans Affairs**

**Minor Construction:** Provides \$14.5 million for expenses related to Hurricane Katrina and other hurricanes of 2005. The bill also includes language that rescinds available \$14.5 million from this account.

## **Title III – Other Emergency Appropriations**

### **Chapter 1: Subcommittee on Agriculture**

**Department of Agriculture:** Provides \$40.0 million for recovery assistance in response to the Kansas hurricanes in early May of 2007. The President did not request such funding.

### **Chapter 2: Subcommittee on Commerce, Justice, and Sciences**

**National Oceanic and Atmospheric Administration (NOAA):** Provides \$60.4 million for disaster relief for commercial salmon fisheries along the Klamath River due to the 2006 salmon fishery failure of Klamath River. The President did not request such funding.

### **Chapter 3: Subcommittee on Energy and Water Development**

**Corps of Engineers Construction:** Provides \$153.0 million for emergency dredging needs due to the effects of the hurricanes of the 2005 season and for repairs to eligible Federal facilities. The President did not request such funding.

### **Chapter 4: Subcommittee on Interior**

**Wildland Fire Management:** Provides \$95.0 million. for emergency wildland fire suppression activities to the Bureau of Land Management, equal to the House-passed level. The President did not request such funding.

**United States Fish and Wildlife Service:** Provides \$7.4 million for the detection of avian flu in wild birds, including the investigation of morbidity and mortality events, and targeted surveillance in hunted birds. The President did not request such funding.

**National Park System:** Provides \$525,000 to the National Park System for the detection of avian flu in wild birds, including the investigation of morbidity and mortality events. The President did not request such funding.

**United States Geological Survey:** Provides \$5.3 million for surveys, investigations, and research for the detection of avian flu in wild birds, including the investigation of morbidity and mortality

events, targeted surveillance in live wild birds, and targeted surveillance in hunted birds. The President did not request such funding.

**National Forest System:** Provides \$12.0 million for the national forest system to increase law enforcement operations on national forest lands. The President did not request such funding.

**Wildland Fire Management:** Provides \$370.0 million for emergency wildland fire suppression activities to the Forest Service. The President did not request such funding. These funds are in addition to the \$100.0 million already provided in this chapter.

### **General Provisions:**

**Conference Report:** Section 5401 of the Conference Report provides \$100.0 million to cover any shortfall related to the Secure Rural Schools and Community Self-Determination Act of 2000.

## **Chapter 5: Subcommittee on Labor, Health and Human Services, and Education**

**Centers for Disease Control and Prevention (CDC):** Provides \$13.0 million for research to develop mine-safety technology. The President did not request such funding.

## **Chapter 6: Subcommittee on the Legislative Branch**

**Capitol Police:** Provides \$10.0 million for a radio modernization program.

**Architect of the Capitol:** Provides \$50.0 million for emergency utility tunnel repairs and asbestos abatement.

## **Chapter 7: Subcommittee on Military Construction and Veterans Affairs**

**Veterans Health Administration, Medical Services:** Provides \$466.8 million. The President did not request such funding.

**Veterans Health Administration, Medical Administration:** Provides \$250.0 million. The President did not request such funding.

**Veterans Health Administration, Medical Facilities:** Provides \$595.0 million. The President did not request such funding.

**Veterans Health Administration, Medical and Prosthetic Research:** Provides \$32.5 million. The President did not request such funding.

**Veterans Benefits Administration, General Operating Expenses:** Provides \$83.2 million. The President did not request such funding.

**Department of Veterans Affairs, Information Technology Systems:** Provides \$35.1 million. The President did not request such funding.

**Department of Veterans Affairs, Minor Construction:** Provides \$326.0 million. The President did not request such funding.

## **Title VI – Other Matters**

**Farm Service Agency:** Provides \$37.5 million. The President did not request such funding.

**Coast Guard:** Provides \$30.0 million to mitigate the Coast Guard's patrol boat operational gap. The President did not request such funding.

### **General Provisions:**

**Mine Safety and Health Administration Rider:** Section 6601 provides that none of the funds already appropriated for FY 2007 may be used by the Mine Safety and Health Administration (MSHA) to enter into or carry out a contract for any operations or services pursuant to the public-private competitions under OMB Circular A-76. Additionally, federal employees at the MSHA shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998.

**Pension Riders:** Sections 6611 to 6615 would amend the Pension Protection Act (PPA) that was enacted in August 2006. A couple of the changes added to the Supplemental are technical in nature (Sections 6611(b), 6612 and 6614) however the majority of the changes are substantive. Their primary substantive change (Section 6615) would expand the airline provisions in the PPA to allow more lenient retirement funding requirements to American Airlines, Continental (non-pilot retirement plans), and several small airlines.

Another change (Section 6611(a)) would permit more than 25 union retirement pension plans to retroactively change back to their 1999 retirement plan structure from a defined benefit plan to a multi-employer plan. This change would cover more than 25,000 union employees and allow the retirement plans to have less stringent funding requirements and reduced backing from the PBGC in case a plan fails. Also, the Supplemental contains a special exemption (Section 6613) applicable only to Lucent Technologies to change its transfer of monies from the pension plan to the retirement health care plan.

**Mexican Trucks:** The vetoed supplemental contained language that made the expenditure of DOT funds to grant authority to Mexican motor carriers contingent on the completion of a pilot program and on the extension of similar authority by the Mexican government to U.S. motor carriers.

Section 6901 of the conference report requires that prior to the execution of the pilot program, the DOT IG completes and submits to Congress a report verifying compliance with each of the 22 safety requirements in Section 350 of PL 107-87. The new section also requires the DOT to address any issues raised in the IG report, submit a report to Congress on such actions, and execute rule-making under specific requirements.

DOT is directed also to submit both an interim report and a final report to Congress after the pilot program is initiated. The final section in the new language requires a separate pilot program if DOT seeks to grant authority for transportation of hazardous materials by Mexican motor carriers.

The requirements in this section are expected to delay the extension of long-haul authority for Mexican motor carriers for up to six months. The administration opposes this section.

## **Chapter 9**

**Office of Federal Housing Enterprise Oversight (OFHEO):** Provides \$6.2 million for OFHEO for ongoing litigation and staffing costs associated with the office's oversight responsibilities for Fannie Mae and Freddie Mac.

## **Title VII – Elimination of SCHIP Shortfall and Other Health Matters**

The bills provides \$650.0 million to eliminate anticipated State Children's Health Insurance Program (SCHIP) funding shortfalls for FY 2007 for 14 states. These states are projected to spend more in FY 2007 than their current federal allotments. The Secretary of Health and Human Services (HHS) would determine the amounts per state.

With respect to Medicaid, the bill prohibits, for one year following enactment, implementation of a CMS regulation which tightens the rules on how states can receive federal Medicaid matching funds. It also, for one year following enactment, prohibits implementation of any rules restricting Medicaid graduate medical education payments to health providers.

To offset these two Medicaid provisions, the bill withholds federal Medicaid matching funds from providers who do not use tamper-proof prescription pads – from FY 2008 onward. It also requires HHS to extend Wisconsin's SeniorCare drug program, authorized by a Medicaid waiver, until the end of 2009. However, HHS does not agree that the program has achieved any federal savings. The program was scheduled to expire June 30, 2007 and HHS recently decided to allow it to be extended until the end of this year. This provision would extend it for another two years.

## **Title VIII – Fair Minimum Wage and Tax Relief**

### **Subtitle A: Minimum Wage Increase**

H.R. 2206 raises the federal minimum wage to \$5.85 an hour 60 days after enactment; to \$6.55 an hour 12 months later; and to \$7.25 an hour 12 months after that. It would increase the minimum wage on the Commonwealth of the Northern Marianas Islands to \$3.55 an hour 60 days after enactment, followed by annual increase of 50 cents an hour until it reaches the federal minimum wage in the United States. It also raises the minimum wage in American Samoa by 50 cents an hour 60 days after enactment, followed by a 50 cents an hour increases annually thereafter. (The minimum wage rates for American Samoa are currently set by a special industry committee appointed by the U.S. Department of Labor and vary for particular industries, as opposed to being set



for an employee's particular occupation.) H.R. 2206 calls for a 50-cent an hour increase annually in the Northern Marianas Islands (vs. every six months in the Senate-passed minimum wage bill). An increase to the minimum wage in American Samoa was added to the Supplemental that was vetoed earlier this year.

H.R. 2206 also strikes sections of the Fair Labor Standards Act dealing with the Special Industry Committees for the American Samoa (section 5), the wage rates for American Samoa (section 8) and the current minimum wage provision for American Samoa (paragraph 3 in section 6(a)). These deletions were not contained in H.R. 2, the Senate-passed minimum wage bill.

The Bureau of Labor Statistics will study the impact of the minimum wage increase in American Samoa and the Northern Marianas Islands 60 days after enactment, and to project the impact of future increases. A report is to be issued to Congress eight months after enactment.

### **Subtitle B: Small Business Tax Incentives**

**The Work Opportunity Tax Credit (“WOTC”).** WOTC allows employers credits against wages for hiring individuals from one or more of nine targeted groups (such as recipients of public assistance, qualified veterans on assistance, and “high risk youth”). The proposal extends WOTC for more than 3 years (through August 31, 2011). *The proposal is estimated to cost \$2.185 billion over five years and \$2.571 billion over ten years.*

**Section 179 Small Business Expensing.** In lieu of depreciation, small business taxpayers may elect to deduct (or expense) the cost of qualified assets (or property) they purchase in the year when the assets are placed in service, within certain limits. Currently, in 2007, small business taxpayers are allowed to expense \$112,000 (indexed for inflation), and the phase-out threshold is \$450,000 (indexed for inflation). The proposal increases the expensing limit to \$125,000 and the phase-out to \$500,000 for 2007 (indexed for inflation) and extends through 2010. The proposal is effective for taxable years beginning after December 31, 2006. *The proposal is estimated to cost \$3.503 billion over five years and \$68 million over ten years.*

**Extension of GO Zone Small Business Expensing.** The proposal extends for one year section 179 small business expensing allowed for certain GO Zone businesses. The proposal applies to property placed in service after December 31, 2007 and before January 1, 2009. *The proposal is estimated to cost \$9 million over five years and \$2 million over ten years.*

**Extension and Expansion of Low-Income Housing Credit Rules for Buildings in the GO Zones.** The proposal extends to December 31, 2010 the placed-in-service deadline for properties located in the GO Zone, Rita GO Zone, and Wilma GO Zone allocated a Low Income Housing Tax Credit in 2006, 2007, or 2008. In addition, the proposal extends the GO Zone, Rita GO Zone, and Wilma GO Zone difficult-to-develop-area designations until December 31, 2010. The proposal also allows GO Zone, Rita GO Zone, and Wilma GO Zone properties placed in service by December 31, 2010 to use 9-percent credits with “disaster relief” CDBG funds loaned at below-market rates. The proposal is effective on the date of enactment. *The proposal is estimated to cost \$221 million over five years and \$221 million over ten years.*

**Bond Financing Rules for Repairs and Reconstructions of Residences in the GO Zones.** The

proposal waives the Mortgage Revenue Bond program's 20-year and existing walls rules for qualified rehabilitation in the GO Zone, Rita GO Zone, and Wilma GO Zone for owner-financing provided after enactment of this provision and before January 1, 2011. *The proposal is estimated to cost \$16 million over five years and \$16 million over ten years.*

**GO Zone GAO Study.** This proposal requires GAO to conduct a study on the practices employed by the State and local governments in allocating and utilizing tax incentives provided pursuant to the GO Zone Act of 2005 and to report its findings to Congress within one year of enactment. The proposal is effective on the date of enactment. *The proposal is estimated to have no revenue effect.*

**Enhancement of the Tip Credit for Certain Small Businesses.** The proposal allows businesses to continue claiming the full tip credit despite an increase in the Federal minimum wage. The proposal achieves this by freezing the Federal minimum wage level for purposes of calculating the credit. The proposal applies to tips received for services performed after December 31, 2006. *The proposal is estimated to cost \$185 million over five years and \$457 million over ten years.*

**Family Business Tax Simplification.** Under current law, if an unincorporated business that is jointly owned by a married couple files as a sole proprietorship (as opposed to a partnership), only the filing spouse will receive credit for paying Social Security and Medicare taxes. The proposal allows an unincorporated business that is jointly owned by a married couple in a common law state to file as a sole proprietorship without penalty. The proposal also ensures that both spouses receive credit for paying Social Security and Medicare taxes. The proposal is effective for taxable years after December 31, 2006. *The proposal is estimated to have a negligible revenue estimate.*

**Waiver of Individual and Corporate Alternative Minimum (“AMT”) Limitations on WOTC and Tip Credits.** The proposal would provide a permanent waiver of the individual and corporate AMT limitations for WOTC and the tip credit. The proposal is effective for credits determined in taxable years after December 31, 2006. *The proposal is estimated to cost \$581 million over five years and \$617 million over ten years.*

**Capital Gain Not Treated as Passive Investment Income.** The proposal eliminates gains from sales or exchanges of stock or securities as an item of passive investment income. The proposal applies to taxable years beginning after the date of enactment. *The proposal is estimated to cost \$146 million over five years and \$361 million over ten years.*

**Treatment of Bank Director Shares.** The proposal clarifies that qualifying director shares are not treated as a second class of stock for purposes of subchapter S. The proposal applies to taxable years beginning after December 31, 2006. *The proposal is estimated to cost \$87 million over five years and \$201 million over ten years.*

**Treatment of Banks Changing from Reserve Method of Accounting.** The proposal allows a bank which changes from the reserve method of accounting for bad debts to elect to take into account all adjustments the year before it changes to an S corporation. Adjustments taken into account the year before the corporation changes to an S corporation are only subject to corporate-level taxation. The proposal applies to taxable years beginning after December 31, 2006. *The proposal is estimated to cost \$83 million over five years and \$199 million over ten years.*

**Treatment of Disposition of an Interest in Qualified Subchapter S Subsidiary.** The proposal provides that where the disposition of stock of a QSub results in the termination of the QSub election, the disposition is treated as a disposition of an undivided interest in the assets of the QSub (based on the percentage of the stock disposed of) followed by a deemed transfer to the QSub. The proposal applies to taxable years beginning after December 31, 2006. *The proposal is estimated to cost \$19 million over five years and \$46 million over ten years.*

**Elimination of Earnings and Profits Attributable to Pre-1983 Years.** The proposal provides in the case of any corporation which was not an S corporation for its first taxable year beginning after December 31, 1996, the accumulated earnings and profits of the corporation as of the beginning of the first taxable year beginning after the date of the enactment of this proposal is reduced by the accumulated earnings and profits (if any) accumulated in a taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. The proposal applies to taxable years beginning after the date of enactment. *The proposal is estimated to cost \$13 million over five years and \$21 million over ten years.*

**Deductibility of interest expense on indebtedness incurred by an acquiring business trust to acquire S corporation stock.** The proposal enables an electing small business trust (“ESBT”) to deduct interest expense it incurs when it borrows funds to purchase S corporation stock. The current disallowance of the deduction for such interest by an ESBT is reversed and given consistent treatment with other S corporation shareholders. The proposal applies to taxable years beginning after December 31, 2006. *The proposal is estimated to cost \$18 million over five years and \$64 million over ten years.*

## Offsets

**Increase in the Minimum Wage.** Increasing the Federal minimum wage rate will reduce the amount of credits taxpayers claim under the FICA tip tax credit. The proposal is effective on the date of enactment. *The proposal is estimated to raise \$185 million over five years and \$457 million over ten years. The Congressional Budget Office has estimated all other revenue effects from increasing the minimum wage, as originally provided in H.R. 2, as being small and of indeterminate size.*

**Increase in Age of Minor Children Whose Unearned Income is Taxed as Parents’ Income.** The proposal raises the age to 19 (24 if a student) under which the unearned income of minors who provide less than half their support with earned income is taxed at their parents’ tax rate. The proposal applies to all unearned income (not just dividends and capital gains) and allows the lower dividends and capital gains rates to apply if the parents are eligible for the lower rates. The proposal is effective for taxable years after the date of enactment. *The proposal is estimated to raise \$608 million over five years and \$1.432 billion over ten years.*

**Modify Interest Suspension Rules.** In general, the IRS may charge interest and certain penalties on tax deficiencies that are determined after a tax return is filed, e.g., as the result of an audit. The proposal modifies the 18-month rule by extending the period to 36 months. The proposal is effective for notices provided by the Secretary or his delegate six months after the date of enactment. *The proposal is estimated to raise \$1.157 billion over five years and \$2.430 billion over ten years.*

**Modification of Collection Due Process Procedures For Employment Tax Liabilities.**

Under the proposal, a “Disqualified Employment Tax Levy” is not entitled to a pre-levy collection due process hearing if the person subject to the levy, or any predecessor thereof, has requested a due process hearing with respect to unpaid employment taxes arising in the two-year period before the beginning of the taxable period to which the levy applies. The proposal is intended to prohibit employers from using the collection due process to delay or prevent the IRS from collecting delinquent trust fund employment taxes. The proposal applies to levies served on or after the date that is 120 days after the date of enactment. *The proposal is estimated to raise \$163 million over five years and \$288 million over ten years.*

**Permanent Extension of IRS User Fees.** The proposal makes permanent the fees the IRS is authorized to charge for private letter rulings and other forms of guidance. *The proposal is estimated to raise \$0 over five years and \$90 million over ten years.*

**Understatement of Taxpayer Liability by Return Preparers.** The proposal expands the application of preparer penalties to all types of tax returns, including employment, excise, exempt organizations, and estate and gift. It increases the amount of the penalty for the understatement of a taxpayer’s liability by a tax return preparer to the greater of \$1000 or 50 percent of the income derived by the tax return preparer with respect to the return or claim. The penalty for an understatement due to willful or reckless conduct is increased to \$5000 or 50 percent of the income derived. Current penalty amounts often are considered to be a cost of doing business rather than a deterrent. The proposal applies to returns prepared after the date of enactment. *The proposal is estimated to raise \$31 million over five years and \$82 million over ten years.*

**Increase in Penalty for Bad Checks and Money Orders.** The minimum penalty for bad checks and money orders is increased from \$15 on checks of \$750 or less, to \$25 on checks of \$1250 or less. The penalty amounts last were increased in 1988, so the proposal updates the amounts to keep pace with rising costs. The proposal applies to checks and money orders received after the date of enactment. *The proposal is estimated to raise \$12 million over five years and \$22 million over ten years.*

**Erroneous Refund Claim Penalty.** The proposal creates a 20-percent penalty on claims for refund that are filed without any reasonable basis. The penalty is applied to the “excessive amount” of the claim, the amount by which the claim exceeds the amount allowable. The proposal does not apply to any portion of the excessive amount of the claim to which other penalties apply. The proposal applies to claims filed or submitted after the date of enactment. *The proposal is estimated to raise \$26 million over five years and \$98 million over ten years.*

### **Subtitle C: Small Business Incentives**

**Enhanced Compliance Assistance:** Section 8302 amends the Small Business Regulatory Enforcement Fairness Act to require agencies, upon publication of a final rule, to publish a compliance assistance guide to assist small businesses.

**Small Business Child Care Grant Program:** Establishes a program to award grants to states on a competitive basis to encourage the establishment and operation of employer-operated child care programs. The Conference Report provides \$50 million for FY 2008 through 2012. The program terminates at the end of FY 2012.

## Title IX – Agricultural Assistance

**Commodity Credit Corporation Fund:** Provides \$3.0 billion to the Commodity Credit Corporation to make assistance available for production losses and other consequences due to natural disasters. The President did not request any of this funding.

Emergency Farm Relief Act of 2007 (in millions of dollars)	Request	H.R. 1591 as passed	H.R. 2206
Crop Disaster Assistance	0	2,090	1,552
Livestock Assistance	0	1,553	1,232
Dairy Producers	0	95	16
Emergency Conservation	0	35	16
Flood Crop and Grazing Land	0	6	0
Sugar Beet and Sugar Cane	0	27	0
Small Business Economic Loss Grant Program	0	100	0
Tree Assistance Program	0	40	0
Conservation Security	0	115	115
Insect Damage	0	20	0
Additional Farm Service Agency staff	0	30	22
Extension of MILC	0	31	31
Low-Income Migrants	0	0	16
Emergency Watershed Protection	0	50	0
	\$0	\$4,142	\$3,000

Title IX does not include funding for peanut storage, spinach, sugar, and tree producers. Section 9007 provides \$16 million for Dairy Assistance. This is a decrease from approximately \$20 million in the vetoed supplemental. Crop Disaster Payments are equal to 42 percent of the market value of the crop had it not suffered damage. The vetoed supplemental utilized a 50 percent payment rate in this section. For the Livestock Compensation Program, the payment rate for compensation is 61 percent, instead of 70 percent as provided in the vetoed supplemental. For the Livestock Indemnity Program, payment rates are 26 percent of the market value the livestock had the day before its death, instead of 30 percent in the vetoed supplemental. The Emergency Conservation Program is funded at \$16 million, instead of \$20 million as provided in the vetoed supplemental. Emergency Grants to Assist Low-Income Migrant and Seasonal Farmworkers is funded at \$16 million, instead of \$21 million as contained in the vetoed supplemental. Administrative Expenses of the Farm Service Agency receive \$22 million instead of \$30 million as contained in the vetoed supplemental.

Money to aid small businesses affected by agriculture disaster is not included. In addition, the Senate bill had permitted producers to receive assistance even if they could have obtained crop insurance but did not, or if they failed to apply for uninsured assistance but did not. The vetoed supplemental eliminated this provision and Title IX retains this retention. Like the vetoed supplemental, Title IX does not permit producers to receive payment for multiple years of production losses. Producers must elect a single calendar year.

Title IX includes a provision to extend the Milk Income Loss Contract (MILC) program by one month, which would increase spending by \$31.0 million in FY07. Extending MILC through the end of 2007 means that at the direction of Chairman Conrad, CBO will assume the program is extended in the baseline for the 10-year budget window. As a result, if the Agriculture Committee actually authorizes extension of the MILC program, it will not be charged any cost for that extension. That means this supplemental is creating a cost that no committee will be charged for – it is a loophole in budget enforcement. Over the 2008-2017 period, this extension would increase spending by \$2.4 billion.