SEC. 834. EXPANSION OF RAPID ACQUISITION AUTHORITY.

Section 806(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 2302 note) is amended to read as follows:

"(c) RESPONSE TO COMBAT EMERGENCIES AND CERTAIN URGENT OPERATIONAL NEEDS.—

"(1) DETERMINATION OF NEED FOR RAPID ACQUISITION AND DEPLOYMENT.—(A) In the case of any supplies and associated support services that, as determined in writing by the Secretary of Defense, are urgently needed to eliminate a documented deficiency that has resulted in combat casualties, or is likely to result in combat casualties, the Secretary may use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed supplies and associated support services.

"(B) In the case of any supplies and associated support services that, as determined in writing by the Secretary of Defense, are urgently needed to eliminate a documented deficiency that impacts an ongoing or anticipated contingency operation and that, if left unfulfilled, could potentially result in loss of life or critical mission failure, the Secretary may use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed supplies and associated support services.

"(2) DESIGNATION OF SENIOR OFFICIAL RESPONSIBLE.—(A) Whenever the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1) that certain supplies and associated support services are urgently needed to eliminate a deficiency described in that subparagraph, the Secretary shall designate a senior official of the Department of Defense to ensure that the needed supplies and associated

support services are acquired and deployed as quickly as possible, with a goal of awarding a contract for the acquisition of the supplies and associated support services within 15 days.

"(B) Upon designation of a senior official under subparagraph (A), the Secretary shall authorize that official to waive any provision of law, policy, directive, or regulation described in subsection (d) that such official determines in writing would unnecessarily impede the rapid acquisition and deployment of the needed supplies and associated support services. In a case in which the needed supplies and associated support services cannot be acquired without an extensive delay, the senior official shall require that an interim solution be implemented and deployed using the procedures developed under this section to minimize adverse consequences resulting in the urgent need.

"(3) USE OF FUNDS.—(A) In any fiscal year in which the Secretary makes a determination described in subparagraph (A) or (B) of paragraph (1), the Secretary may use any funds available to the Department of Defense for acquisitions of supplies and associated support services if the determination includes a written finding that the use of such funds is necessary to address the deficiency in a timely manner.

"(B) The authority of this section may only be used to acquire supplies and associated support services—

"(i) in the case of determinations by the Secretary under paragraph (1)(A), in an amount aggregating not more than $200,000,000 during any fiscal year; and

"(ii) in the case of determinations by the Secretary under paragraph (1)(B),

in an amount aggregating not more than $200,000,000 during any fiscal year.

"(4) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—(A) In the case of a determination by the Secretary under paragraph (1)(A), the Secretary shall notify the congressional defense committees of the determination within 15 days after the date of the determination.

"(B) In the case of a determination by the Secretary under paragraph (1)(B) the Secretary shall notify the congressional defense committees of the determination at least 10 days before the date on which the determination is effective.

"(C) A notice under this paragraph shall include the following:

"(i) The supplies and associated support services to be acquired.

"(ii) The amount anticipated to be expended for the acquisition.

"(iii) The source of funds for the acquisition.

"(D) A notice under this paragraph shall be sufficient to fulfill any requirement to provide notification to Congress for a new start program.

"(E) A notice under this paragraph shall be provided in consultation with the Director of the Office of Management and Budget.

"(5) TIME FOR TRANSITIONING TO NORMAL ACQUISITION SYSTEM.—Any acquisition initiated under this subsection shall transition to the normal acquisition system not later than two years after the date on which the Secretary makes the determination described in paragraph (1) with respect to the supplies and associated support services concerned.

"(6) LIMITATION ON OFFICERS WITH AUTHORITY TO MAKE A DETERMINATION.—The authority to make a determination under paragraph (1)(A) or paragraph (1)(B)may be exercised only by the Secretary or Deputy Secretary of Defense.".

[PLEASE NOTE: THE "CHANGES TO EXISTING LAW" SECTION BELOW SHOWS THE FULL CURRENT TEXT OF SECTION 806 OF PUBLIC LAW 107-314]

Section-by-Section Analysis

This proposal would amend section 806(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note), as amended by section 811 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA FY05). The proposal would enhance the rapid acquisition authority currently provided to the Secretary of Defense under that section to respond to combat emergencies and certain urgent operational needs and would enable the Department of Defense to use this authority for a broader range of urgent warfighter needs. The proposal conditions the use of the broader authority with more stringent congressional notification procedures.

Current law allows the Secretary of Defense to approve use of Rapid Acquisition Authority (RAA) for supplies and associated support services that the Secretary determines are urgently needed <u>to eliminate a deficiency that has resulted in combat casualties, or is likely to result in combat casualties</u>.

This proposal would add a second provision that would allow the Secretary to approve use of RAA for supplies and associated support services that the Secretary determines are urgently needed and impact an ongoing or anticipated contingency operation that, if left unfulfilled, could potentially result in loss of life or critical mission failure. This additional provision would expand the utility and flexibility of RAA.

The current provision covers combat situations; the proposed second provision would allow for use of RAA in any urgent situation that poses a threat that may result in loss of life or critical mission failure. This proposal would allow either or both authorities to be exercised by the Deputy Secretary of Defense in addition to the Secretary.

The distinction between the two provisions also extends to congressional notification. The first provision requires congressional defense committee notification within 15 days of the determination. The proposed second provision would require notification at least 10 days <u>before</u> the determination.

This proposal also increases the amount of RAA available to the Department from $200,000,000 to $400,000,000. Authority in the amount of $200,000,000 is provided for each determination provision. This will allow for greater funding flexibility in rapidly meeting urgent needs. Increasing the authority to $400 million enables the Secretary to use funds already available to the Department; it does not require any additional appropriation. The language is also changed to delete the use of term "fiscal year" so that it is clear that the Secretary may use any funds available to the Department of Defense and not just for that fiscal year.

The revision provides that the notification to the congressional defense committees by the Secretary or Deputy Secretary of Defense will be sufficient to fulfill any requirement to provide notification to Congress for new start programs.

Budgetary Implications: This proposed change has no budget impact as it addresses authorities associated with fulfilling the urgent needs of the warfighter and authority to use any existing funds available to the Department in support of such urgent needs. Implementation of the suggested changes does not necessitate any new appropriation of funds.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 20**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would revise section 806(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 2302 note) as follows:

SEC. 806. RAPID ACQUISITION AND DEPLOYMENT PROCEDURES.

(a) REQUIREMENT TO ESTABLISH PROCEDURES.—Not later than 180 days after the date of the enactment of this Act [Dec. 2, 2002], the Secretary of Defense shall prescribe procedures for the rapid acquisition and deployment of supplies and associated support services that are—

(1)(A) currently under development by the Department of Defense or available from the commercial sector; or

(B) require only minor modifications to supplies described in subparagraph (A);

(2) urgently needed to react to an enemy threat or to respond to significant and urgent safety situations.

(b) ISSUES TO BE ADDRESSED.—The procedures prescribed under subsection (a) shall include the following:

(1) A process for streamlined communications between the Chairman of the Joint Chiefs of Staff, the acquisition community, and the research and development community, including—

(A) a process for the commanders of the combatant commands and the Joint Chiefs of Staff to communicate their needs to the acquisition community and the research and development community; and

(B) a process for the acquisition community and the research and development community to propose supplies and associated support services that meet the needs communicated by the combatant commands and the Joint Chiefs of Staff.

(2) Procedures for demonstrating, rapidly acquiring, and deploying supplies and associated support services proposed pursuant to paragraph (1)(B), including—

(A) a process for demonstrating performance and evaluating for current operational purposes the existing capability of the supplies and associated support services;

(B) a process for developing an acquisition and funding strategy for the deployment of the supplies and associated support services; and

(C) a process for making deployment and utilization determinations based on information obtained pursuant to subparagraphs (A) and (B).

~~(c) RESPONSE TO COMBAT EMERGENCIES.—(1) In the case of any supplies and associated support services that, as determined in writing by the Secretary of Defense without delegation, are urgently needed to eliminate a deficiency that has resulted in combat casualties, or is likely to result in combat casualties, the Secretary shall use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed supplies and associated support services.~~

~~(2)(A) Whenever the Secretary makes a determination under paragraph (1) that certain supplies and associated support services are urgently needed to eliminate a deficiency that has resulted in combat casualties, or is likely to result in combat casualties, the Secretary shall designate a senior official of the Department of Defense to ensure that the needed supplies and associated support services are acquired and deployed as quickly as possible, with a goal of awarding a contract for the acquisition of the supplies and associated support services within 15 days.~~

~~(B) Upon designation of a senior official under subparagraph (A), the Secretary shall authorize that official to waive any provision of law, policy, directive, or regulation described in subsection (d) that such official determines in writing would unnecessarily impede the rapid acquisition and deployment of the needed supplies and associated support services. In a case in which the needed supplies and associated support services cannot be acquired without an extensive delay, the senior official shall require that an interim solution be implemented and deployed using the procedures developed under this section to minimize the deficiency and combat casualties.~~

~~(3) In any fiscal year in which the Secretary makes a determination described in paragraph (1), the Secretary may use any funds available to the Department of Defense for that fiscal year for acquisitions of supplies and associated support services under this section if the determination includes a written finding that the use of such funds is necessary to address the combat capability deficiency in a timely manner. The authority of this section may not be used to acquire supplies and associated support services in an amount aggregating more than $200,000,000 during any such fiscal year.~~

~~(4) The Secretary of Defense shall, in consultation with the Director of the Office of Management and Budget, notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] within 15 days after each determination made under paragraph (1). For each such determination, the notice under the preceding sentence shall identify—~~

~~(A) the supplies and associated support services to be acquired;~~

~~(B) the amount anticipated to be expended for the acquisition; and~~

~~(C) the source of funds for the acquisition.~~

~~(5) Any acquisition initiated under this subsection shall transition to the normal acquisition system not later than two years after the date on which the Secretary makes the determination described in paragraph (1) with respect to the supplies and associated support services concerned.~~

(c) RESPONSE TO COMBAT EMERGENCIES AND CERTAIN URGENT OPERATIONAL NEEDS.—

(1) DETERMINATION OF NEED FOR RAPID ACQUISITION AND DEPLOYMENT.—(A) In the case of any supplies and associated support services that, as determined in writing by the Secretary of Defense, are urgently needed to eliminate a documented deficiency that has resulted in combat casualties, or is likely to result in combat casualties, the Secretary may use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed supplies and associated support services.

(B) In the case of any supplies and associated support services that, as determined in writing by the Secretary of Defense, are urgently needed to eliminate a documented deficiency that impacts an ongoing or anticipated contingency operation and that, if left unfulfilled, could potentially result in loss of life or critical mission failure, the Secretary may use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed supplies and associated support services.

(2) DESIGNATION OF SENIOR OFFICIAL RESPONSIBLE.—(A) Whenever the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1) that certain supplies and associated support services are urgently needed to eliminate a deficiency described in that subparagraph, the Secretary shall designate a senior official of the Department of Defense to ensure that the needed supplies and associated support services are acquired and deployed as quickly as possible, with a goal of awarding a contract for the acquisition of the supplies and associated support services within 15 days.

(B) Upon designation of a senior official under subparagraph (A), the Secretary shall authorize that official to waive any provision of law, policy, directive, or regulation described in subsection (d) that such official determines in writing would unnecessarily impede the rapid acquisition and deployment of the needed supplies and associated support services. In a case in which the needed supplies and associated support services cannot be acquired without an extensive delay, the senior official shall require that an interim solution be implemented and deployed using the procedures developed under this section to minimize adverse consequences resulting in the urgent need.

(3) USE OF FUNDS.—(A) In any fiscal year in which the Secretary makes a determination described in subparagraph (A) or (B) of paragraph (1), the Secretary may use any funds available to the Department of Defense for acquisitions of supplies and associated support services if the determination is to address the deficiency in a timely manner.

(B) The authority of this section may only be used to acquire supplies and associated support services—

(i) in the case of a determination by the Secretary under paragraph (1)(A), in an amount aggregating not more than $200,000,000 during any fiscal year; and

(ii) in the case of a determination by the Secretary under paragraph (1)(B), in an amount aggregating not more than $200,000,000 during any fiscal year.

(4) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—(A) In the case of a determination by the Secretary under paragraph (1)(A), the Secretary shall notify the congressional defense committees of the determination within 15 days after the date of the determination.

(B) In the case of a determination by the Secretary under paragraph (1)(B) the Secretary shall notify the congressional defense committees of the determination at least 10 days before the date on which the determination is effective.

(C) A notice under this paragraph shall include the following:

(i) The supplies and associated support services to be acquired.

(ii) The amount anticipated to be expended for the acquisition.

(iii) The source of funds for the acquisition.

(D) A notice under this paragraph shall be sufficient to fulfill any requirement to provide notification to Congress for new start programs.

(E) A notice under this paragraph shall be provided in consultation with the Director of the Office of Management and Budget.

(5) TIME FOR TRANSITIONING TO NORMAL ACQUISITION SYSTEM.—Any acquisition initiated under this subsection shall transition to the normal acquisition system not later than two years after the date on which the Secretary makes the determination paragraph (1) with respect to the supplies and associated support services concerned.

(6) LIMITATION ON OFFICERS WITH AUTHORITY TO MAKE A DETERMINATION.—The authority to make a determination under paragraph (1)(A) or paragraph (1)(B) may be exercised only by the Secretary or Deputy Secretary of Defense.

(d) WAIVER OF CERTAIN STATUTES AND REGULATIONS.—(1) Upon a determination described in subsection (c)(1), the senior official designated in accordance with subsection (c)(2) with respect to that designation is authorized to waive any provision of law, policy, directive or regulation addressing—

(A) the establishment of the requirement for the supplies and associated support services;

(B) the research, development, test, and evaluation of the supplies and associated support services; or

(C) the solicitation and selection of sources, and the award of the contract, for procurement of the supplies and associated support services.

(2) Nothing in this subsection authorizes the waiver of—

(A) the requirements of this section or the regulations implementing this section; or

(B) any provision of law imposing civil or criminal penalties.

(e) TESTING REQUIREMENT.—(1) The process for demonstrating performance and evaluating for current operational purposes the existing capability of the supplies and associated support services prescribed under subsection (b)(2)(A) shall include—

(A) an operational assessment in accordance with procedures prescribed by the

Director of Operational Test and Evaluation; and

(B) a requirement to provide information about any deficiency of the supplies and associated support services in meeting the original requirements for the supplies and associated support services (as stated in a statement of the urgent operational need or similar document) to the deployment decisionmaking authority.

(2) The process may not include a requirement for any deficiency of supplies and associated support services to be the determining factor in deciding whether to deploy the supplies and associated support services.

(3) If supplies and associated support services are deployed under the rapid acquisition and deployment procedures prescribed pursuant to this section, or under any other authority, before the completion of operational test and evaluation of the supplies and associated support services, the Director of Operational Test and Evaluation shall have access to operational records and data relevant to such supplies and associated support services in accordance with section 139(e)(3) of title 10, United States Code, for the purpose of completing operational test and evaluation of the supplies and associated support services. The access to the operational records and data shall be provided in a time and manner determined by the Secretary of Defense consistent with requirements of operational security and other relevant operational requirements.

(f) LIMITATION.—In the case of supplies that are part of a major system for which a low-rate initial production quantity determination has been made pursuant to section 2400 of title 10, United States Code, the quantity of such supplies acquired using the procedures prescribed pursuant to this section may not exceed an amount consistent with complying with limitations on the quantity of articles approved for low-rate initial production for such system. Any such supplies shall be included in any relevant calculation of quantities for low-rate initial production for the system concerned.

(g) ASSOCIATED SUPPORT SERVICES DEFINED.—In this section, the term “associated support services” means training, operation, maintenance, and support services needed in connection with the deployment of supplies to be acquired pursuant to the authority of this section. The term does not include functions that are inherently governmental or otherwise exempted from private sector performance.