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PAKISTAN ENDURING ASSISTANCE AND COOPERATION ENHANCEMENT ACT OF 2009 (PEACE ACT OF 2009)

MAY 22, 2009.—Ordered to be printed

Mr. BERMAN, from the Committee on Foreign Affairs, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1886]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 1886) to authorize democratic, economic, and social development assistance for Pakistan, to authorize security assistance for Pakistan, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

TABLE OF CONTENTS

	Page
The Amendment	2
Summary	16
Background and Purpose for the Legislation	17
Hearings	19
Committee Consideration	19
Votes of the Committee	19
Committee Oversight Findings	19
New Budget Authority and Tax Expenditures	19
Congressional Budget Office Cost Estimate	20
Performance Goals and Objectives	22
Constitutional Authority Statement	23
New Advisory Committees	23
Congressional Accountability Act	23
Earmark Identification	23
Section-by-Section Analysis and Discussion	23
Additional Views	35

79–006

THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009" or the "PEACE Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Findings.
Sec. 4. Declaration of principles.

TITLE I—DEMOCRATIC, ECONOMIC, AND SOCIAL DEVELOPMENT ASSISTANCE FOR PAKISTAN

Sec. 101. Purposes of assistance.
Sec. 102. Authorization of assistance.
Sec. 103. Multilateral support for Pakistan.
Sec. 104. Pakistan Democracy and Prosperity Fund.
Sec. 105. Authorization of appropriations.

TITLE II—SECURITY ASSISTANCE FOR PAKISTAN

Sec. 201. Sense of Congress.
Sec. 202. Purposes of assistance.
Sec. 203. Authorization of assistance.
Sec. 204. Pakistan Counterinsurgency Capabilities Fund.
Sec. 205. Exchange program between military and civilian personnel of Pakistan and certain other countries.
Sec. 206. Limitation on United States military assistance to Pakistan.
Sec. 207. Authorization of appropriations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Comprehensive regional security strategy.
Sec. 302. Monitoring and evaluation of assistance.
Sec. 303. Auditing.
Sec. 304. Requirements for civilian control of United States assistance for Pakistan.
Sec. 305. Sense of Congress.
Sec. 306. Reports.
Sec. 307. Sunset.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided in this Act, the term "appropriate congressional committees" means the Committees on Appropriations and Foreign Affairs of the House of Representatives and the Committees on Appropriations and Foreign Relations of the Senate.

(2) COUNTERINSURGENCY.—The term "counterinsurgency" means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through the use of subversion and armed conflict.

(3) COUNTERTERRORISM.—The term "counterterrorism" means efforts to combat—

(A) al Qaeda; and

(B) other terrorist organizations, as such term is defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).

(4) FATA.—The term "FATA" means the Federally Administered Tribal Areas of Pakistan.

(5) FCR.—The term "FCR" means the Frontier Crimes Regulation, codified under British law in 1901, and applicable to the FATA.

(6) NWFP.—The term "NWFP" means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Islamic Republic of Pakistan has been a critical ally of the United States for more than 4 decades.

(2) With the free and fair election of February 18, 2008, Pakistan returned to civilian rule after almost 9 years under a military dictatorship.

(3) After the September 11, 2001, terrorist attacks against the United States, Pakistan chose to partner with the United States in the fight against al Qaeda, the Taliban, and other extremist and terrorist groups.

(4) Since 2001, the United States has contributed more than $12,000,000,000 to Pakistan to strengthen Pakistan's governance, economy, education system, healthcare services, and military, so as to bring freedom and op-

portunities to the people of Pakistan while helping to combat terrorism and to counter a domestic insurgency.

(5) The United States requires a balanced, integrated, countrywide strategy that provides assistance throughout Pakistan and does not disproportionately focus on military assistance or one particular area or province.

(6) Despite killing or capturing hundreds of al Qaeda operatives and other terrorists—including major al Qaeda leaders, such as Khalid Sheikh Muhammad, Ramzi bin al-Shibh, and Abu Faraj al-Libi—Pakistan's FATA, parts of the NWFP, Quetta in Balochistan, and Muridke in Punjab remain a sanctuary for al Qaeda, the Afghan Taliban, and affiliated groups from which these groups organize terrorist actions against Pakistan and other countries.

(7) Pakistan's security forces have recently begun taking concerted action against those who threaten Pakistan's security and stability, with military operations in the Bajour agency in the FATA and in the Swat, Buner, and Dir districts in the NWFP.

(8) The displacement of over 1,000,000 Pakistanis poses a grave humanitarian crisis and requires the immediate attention of the United Nations, and the strong support of donor nations, to provide food, water, shelter, medicine, sanitation and other emergency services and supplies to the displaced, along with longer-term development assistance. The humanitarian crisis highlights the need for Pakistan to develop an effective national counterinsurgency strategy, in order to mitigate such displacement.

SEC. 4. DECLARATION OF PRINCIPLES.

Congress declares that the relationship between the United States and Pakistan should be based on the following principles:

(1) Pakistan is a critical friend and ally to the United States, both in times of strife and in times of peace, and the two countries share many common goals, including combating terrorism and violent radicalism, solidifying democracy and rule of law in Pakistan, and promoting the social and material well-being of the people of Pakistan.

(2) United States assistance to Pakistan is intended to supplement, not supplant, Pakistan's own efforts in building a stable, secure, and prosperous Pakistan, and United States assistance will be wholly ineffective without Pakistan's own serious efforts to improve the health, education, and living standards of its population, including maintaining or increasing the financial resources devoted to such efforts.

(3) The United States supports Pakistan's struggle against extremist elements and recognizes the profound sacrifice made by Pakistan in the fight against terrorism, including the loss of more than 1,600 soldiers since 2001 in combat with al Qaeda, the Taliban, and other extremist and terrorist groups.

(4) The United States intends to work with the Government of Pakistan—

(A) to build mutual trust and confidence by actively and consistently pursuing a sustained, long-term, multifaceted relationship between the two countries, devoted to strengthening the mutual security, stability, and prosperity of both countries;

(B) to support the people of Pakistan and their democratic government in their efforts to consolidate democracy, through strengthening Pakistan's parliament, helping Pakistan reestablish an independent and transparent judicial system, and working to extend the rule of law in all areas in Pakistan;

(C) to promote long-term development and infrastructure projects, including in healthcare, water management, and energy programs, in all areas of Pakistan, that are sustained and supported by each successive democratic government in Pakistan;

(D) to encourage sustainable economic development in Pakistan and the integration of Pakistan into the global economy in order to improve the living conditions of the people of Pakistan;

(E) to ensure that the people of Pakistan, including those living in areas governed by the FCR, have access to public, modernized education and vocational training to enable them to provide for themselves, for their families, and for a more prosperous future for their children;

(F) to expand people-to-people engagement between the two countries, through increased educational, technical, and cultural exchanges and other methods;

(G) to ensure transparency of and provide effective accountability for all United States assistance and reimbursements provided to Pakistan;

(H) to take steps to improve Pakistan's counterterrorism financing and anti-money laundering laws to comply with international standards, to in-

clude applying for "Financial Action Task Force" observer status and adhering to the United Nations International Convention for the Suppression of the Financing of Terrorism;

(I) to establish a counterinsurgency and counterterrorism strategy to prevent any territory of Pakistan from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere, and ensure that madrasas in Pakistan are not used to incite terrorism;

(J) to ensure that Pakistan has strong and effective law enforcement and national defense forces, under civilian leadership, with sufficient and appropriate security equipment and training to effectively defend Pakistan against internal and external threats;

(K) to ensure access of United States investigators to individuals suspected of engaging in worldwide proliferation of nuclear materials, as necessary, and restrict such individuals from travel or any other activity that could result in further proliferation;

(L) to help Pakistan meet its commitment to not support any person or group that conducts violence, sabotage, or other activities meant to instill fear or terror in Pakistan's neighboring countries; and

(M) to help Pakistan gain control of its under-governed areas and stop any support, direction, guidance to, or acquiescence in the activities of, any person or group that engages in acts of violence or intimidation against civilians, civilian groups, or governmental entities.

TITLE I—DEMOCRATIC, ECONOMIC, AND SOCIAL DEVELOPMENT ASSISTANCE FOR PAKISTAN

SEC. 101. PURPOSES OF ASSISTANCE.

The purposes of assistance under this title are—

(1) to demonstrate unequivocally the long-term commitment of the United States to the people of Pakistan and Pakistan's democratic institutions;

(2) to support the consolidation of democracy, good governance, and the rule of law in Pakistan;

(3) to help build the capacity of law enforcement forces in Pakistan to combat terrorism and violent militancy and expeditiously investigate, arrest, and prosecute alleged criminals, consistent with the rule of law and due process;

(4) to further the sustainable and effective economic and social development of Pakistan and the improvement of the living conditions of the people of Pakistan, especially in areas of direct interest and importance to their daily lives;

(5) to strengthen regional ties between Pakistan and its neighbors by offering concrete nonmilitary assistance for issues of mutual economic and social concern;

(6) to strengthen Pakistan's public education system, increase literacy, expand opportunities for vocational training, and help create an appropriate national curriculum for all schools in Pakistan;

(7) to expand people-to-people engagement between the United States and Pakistan, through increased educational, technical, and cultural exchanges and other methods; and

(8) to strengthen respect for internationally recognized human rights in efforts to stabilize the security environment in Pakistan.

SEC. 102. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—To carry out the purposes of section 101, the President is authorized to provide assistance for Pakistan to support the activities described in subsection (b).

(b) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (a) include the following:

(1) FORTIFYING DEMOCRATIC INSTITUTIONS.—To support, notwithstanding any other provision of law, democratic institutions in Pakistan in order to strengthen civilian rule and long-term stability, including assistance such as—

(A) support for efforts to strengthen the National Parliament of Pakistan, including—

(i) assistance to parliamentary committees to enhance the capacity to conduct public hearings and oversee government activities, including national security issues and the military budget, to solicit input on key public policy issues, and to oversee the conduct of elections;

(ii) support for the establishment of constituency offices and otherwise promote the responsibility of members of parliament to respond to constituents; and

(iii) strengthening of the role of parliamentary leadership;

(B) support for voter education and civil society training, including training with grassroots organizations to enhance the capacity of the organizations to advocate for the development of public policy;

(C) support for political parties, including increasing their capacity and protecting their right to carry out political activities without restriction (other than reasonable administrative requirements commonly applied in democratic countries) and fostering the responsiveness of such parties to the needs of the people of Pakistan;

(D) support for strengthening the capacity of the civilian Government of Pakistan to carry out its responsibilities, including supporting the establishment of frameworks that promote government transparency and criminalize corruption in both the government and private sector, audit offices, inspectors general offices, third party monitoring of government procurement processes, whistle-blower protections, and anti-corruption agencies; and

(E) in particular, support for efforts by the Government of Pakistan to promote governance reforms in the FATA, including—

(i) extension of the Political Parties Act;

(ii) local experimentation with methods to transition from the FCR; and

(iii) long-term development of durable and responsive political institutions.

(2) ENHANCEMENT AND STRENGTHENING OF THE JUDICIAL SYSTEM AND LAW ENFORCEMENT.—To support, notwithstanding any other provision of law, Pakistan's efforts to expand the rule of law and build the capacity, transparency, and trust in government institutions, at the national, provincial, and local levels, including assistance such as—

(A) support for the rule of law and systemic improvement of judicial and criminal justice institutions, including—

(i) management of courts;

(ii) enhanced career opportunities and professional training for judges, public defenders, and prosecutors; and

(iii) efforts to enhance the rule of law to all areas in Pakistan where the writ of the government is under heightened challenge by terrorists and militants, including through innovations in the delivery of judicial services that enhance the legitimacy of state institutions;

(B) support for professionalization of the police, including—

(i) training regarding use of force;

(ii) education and training regarding human rights;

(iii) training regarding evidence preservation and chain of custody; and

(iv) training regarding community policing;

(C) support for independent law enforcement agencies, such as the Intelligence Bureau of the Ministry of Interior, responsive to civilian control, including—

(i) enhanced coordination with judicial processes;

(ii) enhancement of forensics capabilities;

(iii) data collection and analyses;

(iv) case tracking and management;

(v) financial intelligence functions; and

(vi) maintenance of data systems to track terrorist of criminal activity; and

(D) strengthening the capacity of the police and other civilian law enforcement agencies to provide a robust response to threats from extremists and terrorists along the frontier and elsewhere in Pakistan, including—

(i) the development of an elite rapid reaction force which could be deployed on short notice to secure areas that are threatened by militancy; and

(ii) facilitating improved counterterrorism and counterinsurgency coordination between local government officials, the police, paramilitary, and military leaders.

(3) SUPPORT FOR BROAD-BASED AND SUSTAINABLE ECONOMIC DEVELOPMENT.—To support economic development in Pakistan by—

(A) promoting energy sector reform and development;

(B) expanding assistance for agricultural and rural development, including farm-to-market roads, systems to prevent spoilage and waste, and other small-scale infrastructure improvements that will enhance supply and distribution networks;

(C) increasing employment opportunities, including support to small and medium enterprises, microfinance and microenterprise activities, and in particular programs to improve the lives of women and girls; and

(D) increasing investment in infrastructure, including construction of roads, water resource management systems, irrigation channels, and continued development of a national aviation industry and aviation infrastructure.

(4) SUPPORT TO INCREASE LOCAL CAPACITY.—To increase the capacity and improve the sustainability of Pakistan's national, provincial, and local governmental and nongovernmental institutions, including assistance to—

(A) increase and improve the capacity of Pakistan's national, provincial, and local governmental institutions by—

(i) providing technical assistance to all ministries to improve transparency and ability to respond to the needs of the people of Pakistan; and

(ii) promoting the implementation of fiscal and personnel management, including revenue tracking and expenditure systems; and

(B) enhance the capacity of Pakistan's nongovernmental and civil society organizations to respond to the needs of the people of Pakistan by—

(i) increasing support for local nongovernmental organizations with demonstrated experience in delivering services to the people of Pakistan, particularly to women, children, and other vulnerable populations in Pakistan;

(ii) providing training and education to local nongovernmental and civil society organizations on ways to identify and improve the delivery of services to the people of Pakistan; and

(iii) promoting local ownership and participation, including encouraging communities to contribute a percentage of the value of United States projects or activities carried out under this title in the form of labor, in-kind materials, or other provisions.

(5) SUPPORT FOR PUBLIC EDUCATION SYSTEM.—To support Pakistan's public education system, including—

(A) implementation of a national education strategy, to include both primary and secondary education, focused on literacy and civic education, including—

(i) programs to assist development of modern, nationwide school curriculums for public, private, and religious schools that incorporate relevant subjects, such as math, science, literature, and human rights awareness, in addition to agricultural education and training;

(ii) enhancement of civic education programs focused on political participation, democratic institutions, and tolerance of diverse ethnic and religious groups; and

(iii) support for the proper oversight of all educational institutions, including madrasas, as required by Pakistani law, including registration with the Ministry of Education and regular monitoring of curriculum by the Ministry of Education to ensure students in Pakistan receive a comprehensive education;

(B) initiatives to enhance the access to education for women and girls, and to increase women's literacy, with special emphasis on helping girls stay in school;

(C) funding to the Government of Pakistan to use to increase immediately teacher salaries and to recruit and train teachers and administrators, as well as develop formalized salary scales with merit-based pay increases;

(D) establishment of vocational and technical programs to enhance employment opportunities;

(E) encouragement of United States and Pakistani public-private partnerships to increase investment in higher education and technical training opportunities;

(F) construction and maintenance of public schools, including water sanitation, perimeter walls, and recreation areas;

(G) provision of textbooks and other learning materials and food assistance for student meals; and

(H) provision of software to educational institutions and students at the lowest possible cost, specifically targeting universities that specialize in information technology, and women's colleges and women's secondary schools.

(6) SUPPORT FOR HUMAN RIGHTS.—To promote respect for and compliance with internationally recognized human rights, including assistance such as—

(A) programs to strengthen civil society organizations that promote internationally recognized human rights, including religious freedom, freedom of expression, and freedom of association, and that support human rights monitoring;

(B) promotion of education regarding internationally recognized human rights;

(C) programs designed to end traditional practices and punishments that are inconsistent with internationally recognized human rights norms and protections, such as honor killings and other forms of cruel and unusual punishments;

(D) promotion of freedom of religion and religious tolerance, protection of religious minorities, and promotion of freedom of expression and association, including support for responsible independent media;

(E) promotion of nongovernmental organizations that focus on the protection of women and girls, including women-led organizations and programs that support the participation of women in the national, provincial, and local political process, and programs to end violence against women, including rape;

(F) technical, legal, and law enforcement assistance for the investigation of past disappearances of individuals in Pakistan and the development of a national data base of such individuals; and

(G) programs in support and protection of the rights of ethnic minorities in Pakistan, including Baluchis, Sindhis, and Pashtuns, to preserve their language, culture, traditional areas of inhabitancy, and to fight any direct or indirect discrimination.

(7) SUPPORT FOR REFUGEES AND INTERNALLY DISPLACED PERSONS.—It is the sense of Congress that—

(A) counterinsurgency operations being carried out by the Government of Pakistan should be designed to minimize civilian casualties and collateral damage to the people of Pakistan and to provide security for the delivery of humanitarian assistance to the affected civilian population;

(B) the United States should continue to provide robust assistance to the people of Pakistan who have been displaced as a result of ongoing conflict and violence;

(C) the United States should support international efforts to coordinate assistance to refugees and internally displaced persons in Pakistan, including by providing support to international and nongovernmental organizations for this purpose;

(D) the Administrator of the United States Agency for International Development should support the development objectives of the Refugee Affected and Host Areas (RAHA) Initiative in Pakistan to address livelihoods, heath, education, infrastructure development, and environmental restoration in identified parts of the country where Afghan refugees have lived; and

(E) the Administrator of the United States Agency for International Development should evaluate the effectiveness of the livelihoods projects in the FATA in order to determine whether systems need to be put into place to improve programming in this key sector.

(8) SUPPORT FOR HEALTHCARE EFFORTS.—To provide urgently needed healthcare assistance to the people of Pakistan, including assistance to supplement the Government of Pakistan's efforts to eliminate diseases, including hepatitis.

(9) SUPPORT FOR PUBLIC DIPLOMACY.—To implement a more effective public diplomacy strategy in Pakistan in order to ensure that the Pakistani public recognizes that it is in Pakistan's own interest to partner with the United States and other like-minded countries to combat militant extremism, as well as to promote a better understanding of the United States, including through the following:

(A) Partnering with the Government of Pakistan to highlight the negative behavior of insurgent groups and to encourage civil society, respected scholars, and other leaders to speak out against militancy and violence.

(B) Providing technical assistance to the Government of Pakistan to both disrupt and provide alternatives to the illegal FM radio stations used by insurgent groups in the FATA and adjacent districts of the NWFP.

(C) Expanded exchange activities under the Fulbright Program, the International Visitor Leadership Program, the Youth Exchange and Study Program, and related programs administered by the Department of State designed to promote mutual understanding and interfaith dialogue.

(D) Expansion of sister institution programs between United States and Pakistani schools and universities, towns and cities, and other organizations in such fields as medicine and healthcare, business management, environmental protection, information technology, and agriculture.

(E) Additional scholarships to enable students to study in the United States.

SEC. 103. MULTILATERAL SUPPORT FOR PAKISTAN.

To the extent that Pakistan continues to evolve toward civilian control of the government and to develop and implement comprehensive economic reform programs, the President should do the following:

(1) MULTILATERAL SUPPORT.—Take the lead in mobilizing international financial institutions, in particular the International Monetary Fund and affiliated institutions in the World Bank group, to provide timely and appropriate resources to help Pakistan.

(2) STABILIZATION ASSISTANCE.—In conjunction with other governments and international financial institutions (including the International Monetary Fund), support the implementation of a plan of the Government of Pakistan to attack structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Pakistan.

(3) CURRENCY STABILIZATION LOANS.—Provide leadership in supporting multilateral agreements to provide government-to-government loans for currency stabilization in Pakistan if the loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

SEC. 104. PAKISTAN DEMOCRACY AND PROSPERITY FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the "Pakistan Democracy and Prosperity Fund" (hereinafter in this section referred to as the "Fund"), consisting of such amounts as may be appropriated or transferred to the Fund as provided in this section and which may be used for purposes of this title.

(b) TRANSFERS TO FUND.—The Fund shall consist of the following:

(1) Amounts appropriated to carry out this title.

(2) Amounts appropriated on or after the date of the enactment of this Act for "Development Assistance", "Global Health and Child Survival", and the "Economic Support Fund" for assistance for Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) that are transferred by the President to the Fund pursuant to subsection (d).

(3) To the extent or in the amounts provided in advance in appropriations Acts, amounts accepted by the President under subsection (c) that are transferred by the President to the Fund pursuant to subsection (d).

(c) ACCEPTANCE OF AMOUNTS FROM OUTSIDE SOURCES.—The President may accept funds from non-United States Government sources, including foreign governments, nongovernmental organizations, private business entities, and private individuals, for purposes of carrying out this title.

(d) STATUS OF AVAILABILITY OF AMOUNTS IN FUND.—The President is authorized to transfer to the Fund amounts under paragraphs (2) and (3) of subsection (b). Such amounts shall be merged with and shall be available for any purpose for which any of the amounts so transferred are available.

(e) REPORT.—The President shall transmit to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until September 30, 2018, a report on programs, projects, and activities carried out using amounts obligated and expended from the Fund.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title $1,500,000,000 for each of the fiscal years 2010 through 2013.

(b) AVAILABILITY.—Amounts authorized to be appropriated to carry out this title for a fiscal year are—

(1) authorized to remain available until September 30 of the succeeding fiscal year; and

(2) in addition to amounts otherwise available for such purposes.

(c) SENSE OF THE CONGRESS.—It is the sense of Congress that United States assistance provided under this title should be made available on a proportional and equitable basis between the FATA and other regions of Pakistan.

TITLE II—SECURITY ASSISTANCE FOR PAKISTAN

SEC. 201. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States security assistance for Pakistan should be used to improve relationships between United States military and Pakistani military personnel, including outreach to the "lost generation" of Pakistan's officers who did not attend United States-sponsored training as a result of restrictions placed on United States assistance for Pakistan due to Pakistan's possession of a nuclear device; and

(2) United States security assistance for Pakistan should be fully accountable, should be contingent on Pakistan ending support for terrorist groups, and should meet the national security needs of Pakistan.

SEC. 202. PURPOSES OF ASSISTANCE.

The purposes of assistance under this title are—

(1) to support Pakistan's paramount national security need to fight and win the ongoing counterinsurgency within its borders;

(2) to work with the Government of Pakistan to protect and secure Pakistan's borders and prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere;

(3) to work in close cooperation with the Government of Pakistan to coordinate action against extremist and terrorist targets; and

(4) to develop knowledge of and appreciation for democratic governance and a military that is controlled by and responsible to democratically elected civilian leadership.

SEC. 203. AUTHORIZATION OF ASSISTANCE.

(a) INTERNATIONAL MILITARY EDUCATION AND TRAINING.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated to carry out this title for a fiscal year, not less than $4,000,000 is authorized be made available for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) for Pakistan, including expanded international military education and training (commonly known as "E–IMET").

(2) USE OF FUNDS.—Not less than 30 percent of the amount authorized to be made available under this subsection for a fiscal year is authorized to be used to pay for courses of study and training in counterinsurgency and civil-military relations.

(b) FOREIGN MILITARY FINANCING PROGRAM.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated to carry out this title for a fiscal year, not less than $300,000,000 is authorized to be made available for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) for the purchase of defense articles, defense services, and military education and training for Pakistan.

(2) USE OF FUNDS.—Not less than 75 percent of the amount authorized to be made available under this subsection for a fiscal year is authorized to be used for the purchase of defense articles, defense services, and military education and training for activities relating to counterinsurgency and counterterrorism operations in Pakistan. Such articles, services, and military education and training may include the following:

(A) Aviation maintenance and logistics support for United States-origin and United States-supported rotary wing aircraft and upgrades to such aircraft to include modern night vision and targeting capabilities.

(B) Intelligence, surveillance, and reconnaissance (ISR) ground and air manned and unmanned platforms, including sustainment.

(C) Command and control capabilities.

(D) Force protection and counter improvised explosive device capabilities, including protection of vehicles.

(E) Protective equipment, such as body armor and helmets, night vision goggles, and other individual equipment, including load-bearing equipment, individual and unit level first aid equipment, ballistic eye protection, and cold weather equipment.

(F) Appropriate individual and unit level medical services and articles for the Pakistan Army, the Pakistan Frontier Corps, and other appropriate security forces.

(G) Assistance to enable the Pakistani military to distribute humanitarian assistance and establish a tactical civil-military operations capability, including a civil affairs directorate.

(3) RESTRICTION RELATING TO F–16 PROGRAM.—

(A) CONGRESSIONAL FINDING.—In accordance with the Letters of Offer and Acceptance signed between the United States and Pakistan in 2006, Congress finds that the Government of Pakistan is responsible for making the remaining payments of the F-16 sale with its own national funds.

(B) RESTRICTION.—Subject to subparagraph (C), amounts authorized to be made available under this subsection or section 204 for a fiscal year may not be used for the purchase of, or upgrade to, F–16 fighter aircraft or munitions for such aircraft.

(C) EXCEPTION.—Amounts authorized to be made available under this subsection for a fiscal year are authorized to be used for military construction pursuant to the security plan contained in the Letters of Offer and Acceptance signed between the United States and Pakistan in 2006.

(D) WAIVER.—The President may waive the restriction under subparagraph (B) with respect to amounts authorized to be made available under this subsection for a fiscal year, other than amounts authorized to be made available under paragraph (2) of this subsection, if the President certifies to the appropriate congressional committees not later than 15 days prior to exercising the authority of this subparagraph that the waiver is important to the national security interests of the United States.

(4) SECURITY ASSISTANCE PLAN.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a plan for the proposed use of amounts authorized to be made available under this subsection for each of the fiscal years 2010 through 2013. Such plan may be transmitted to the appropriate congressional committees in conjunction with the plan required under section 204(f)(1).

(5) DEFINITIONS.—In this section, the terms "defense articles", "defense services", and "military education and training" have the meaning given such terms in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate Pakistan's establishment of a program to enable the Pakistani military to provide reconstruction assistance in areas damaged by combat operations.

SEC. 204. PAKISTAN COUNTERINSURGENCY CAPABILITIES FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the "Pakistan Counterinsurgency Capabilities Fund" (hereinafter in this section referred to as the "Fund" or the "PCCF"), consisting of such amounts as may be appropriated or transferred to the Fund as provided in this section.

(b) TRANSFERS TO FUND.—The PCCF shall consist of the following:

(1) Amounts appropriated to carry out this section.

(2) Amounts appropriated on or after the date of the enactment of this Act to carry out the provisions of chapter 8 of part I and chapters 2, 5, 6, and 8 of part II of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act for assistance for enhancing counterinsurgency capabilities of Pakistan that are transferred by the President to the Fund pursuant to subsection (e).

(c) PURPOSES OF FUND.—Amounts in the Fund are authorized to be used by the Secretary of State, with the concurrence of the Secretary of Defense, to enhance the capability of Pakistan to conduct counterinsurgency and counterterrorism operations, including—

(1) the training and equipping of the armed forces of Pakistan, including the articles, services, and military education and training described in section 203(b)(2);

(2) the training and equipping of paramilitary and other security forces, including the Frontier Corps, and, on an exceptional basis, irregular security forces; and

(3) building the capability of the forces described in paragraphs (1) and (2) to respond to urgent humanitarian relief and reconstruction requirements that will immediately assist those civilians affected by military operations.

(d) ADDITIONAL AUTHORITY.—

(1) IN GENERAL.—Except as provided in section 3(a)(2) of the Arms Export Control Act and except as otherwise provided in this title, amounts in the Fund shall be available notwithstanding any other provision of law.

(2) AVAILABILITY.—Amounts in the Fund shall be available in the fiscal year they were appropriated and the succeeding fiscal year.

(e) TRANSFER AUTHORITY.—

(1) IN GENERAL.—The Secretary of State may transfer amounts appropriated for Pakistan pursuant to the provisions of law described in subsection (b)(2) to the Fund. Such funds shall be merged with amounts in the Fund and shall be available for any purpose for which any of the amounts so transferred are available.

(2) TO OTHER AGENCIES.—The Secretary of State may transfer amounts in the Fund to the Department of Defense or any other Federal department or agency, with the concurrence of the head of such department or agency, to enable such departments and agencies to support Pakistan's counterinsurgency operations, and such amounts may be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred or may be transferred pursuant to the authorities contained in the Foreign Assistance Act of 1961.

(3) NOTIFICATION.—The Secretary of State shall, not less than 15 days prior to making transfers from Fund, notify the appropriate congressional committees in writing of the details of any such transfer. If the Secretary determines that it is in the national security interest of the United States to transfer such funds immediately, the Secretary shall notify the appropriate congressional committees not later than 5 days after the transfer of such funds.

(4) RETRANSFER.—Upon determination by the Secretary of Defense or head of any other Federal department or agency, with the concurrence of the Secretary of State, that all or part of the funds transferred from the Fund pursuant to paragraph (2) are not necessary for the purposes described in subsection (c), such amounts may be transferred by the head of the relevant Federal department or agency back to the Fund and shall be available for the same purposes and for the same time period as originally appropriated.

(5) RELATIONSHIP TO OTHER LAWS.—The authority of this section is in addition to transfer authorities provided in the Foreign Assistance Act of 1961 or under any other provision of law.

(f) REPORT.—

(1) INITIAL SPENDING PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an initial spending plan for the any amounts in the Fund.

(2) IMPLEMENTATION.—Not later than April 1, 2010, and every six months thereafter through September 30, 2013, the Secretary shall submit to the appropriate congressional committees a report summarizing, on a project-by-project basis, the activities carried out by the Fund, including a description of provisions of law waived to carry out such activities.

(g) SUBMISSION OF REPORTS AND NOTIFICATIONS.—Any report or notification required by this section shall be submitted in classified form, but may include a unclassified annex if necessary.

(h) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Fund $700,000,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 through 2013.

SEC. 205. EXCHANGE PROGRAM BETWEEN MILITARY AND CIVILIAN PERSONNEL OF PAKISTAN AND CERTAIN OTHER COUNTRIES.

(a) IN GENERAL.—The Secretary of State is authorized to establish an exchange program between—

(1) military and civilian personnel of Pakistan, and

(2)(A) military and civilian personnel of countries determined by the Secretary of State to be in transition to democracy, or

(B) military and civilian personnel of North Atlantic Treaty Organization member countries,

in order to foster greater respect for and understanding of the principle of civilian rule of Pakistan's military. The program established under this subsection shall be known as the "Pakistan Military Transition Program".

(b) ELEMENTS OF PROGRAM.—The program authorized under subsection (a) may include—

(1) conferences, seminars, and other events;

(2) distribution of publications; and

(3) reimbursement of expenses of foreign military personnel participating in the program, including transportation expenses, translation services expenses, and administrative expenses relating to the program.

(c) ROLE OF NONGOVERNMENTAL ORGANIZATIONS.—Amounts authorized to be appropriated to carry out this title for a fiscal year are authorized to be made available for nongovernmental organizations to facilitate the implementation of the program authorized under subsection (a).

SEC. 206. LIMITATION ON UNITED STATES MILITARY ASSISTANCE TO PAKISTAN.

(a) PROHIBITION ON USE OF FUNDS.—None of the funds authorized to be appropriated for military assistance to Pakistan for fiscal year 2011 and each fiscal year thereafter may be obligated or expended if the President has not made the determinations described in subsection (b) for such fiscal year.

(b) DETERMINATIONS REGARDING ENHANCED COOPERATION BETWEEN THE UNITED STATES AND PAKISTAN.—The determinations referred to in subsection (a) are—

(1) a determination by the President at the beginning of each fiscal year that the Government of Pakistan is continuing to cooperate with the United States in efforts to dismantle supplier networks relating to the acquisition of nuclear weapons-related materials, including, as necessary, providing direct access to Pakistani nationals associated with such networks; and

(2) a determination by the President at the beginning of each fiscal year that the Government of Pakistan during the preceding fiscal year has demonstrated a sustained commitment to and making progress towards combating terrorist groups, including taking into account the progress the Government of Pakistan has made with regard to—

(A) ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against United States or coalition forces in Afghanistan, or against the territory or people of neighboring countries;

(B) closing terrorist camps in the FATA, dismantling terrorist bases of operations in other parts of the country, including Quetta and Muridke, and taking action when provided with intelligence about high-level terrorist targets;

(C) preventing cross-border attacks into neighboring countries; and

(D) strengthening counter-terrorism and anti-money laundering laws.

(c) WAIVER.—The President may waive the restriction under subsection (a) for any fiscal year if the President certifies to the appropriate congressional committees 15 days before the President exercises the authority of this subsection that the provision of military assistance to Pakistan is important to the national security interests of the United States.

(d) CONSULTATION AND WRITTEN JUSTIFICATION.—Not later than 5 days prior to making a determination described in subsection (b), the President shall consult with the appropriate congressional committees and, upon making such determination, shall submit to the appropriate congressional committees a written justification that specifies the basis upon which the President made such a determination, including an acknowledgment of the extent to which the Government of Pakistan has made progress with regard to subsection (b)(2). The justification shall be unclassified but may include a classified annex.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committees on Foreign Affairs and Armed Services of the House of Representatives and the Committees on Foreign Relations and Armed Services of the Senate; and

(2) the term "military assistance"—

(A) means assistance authorized under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program), including assistance authorized under section 203(b) of this Act, assistance authorized under section 204 of this Act, and assistance authorized under part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.), other than assistance authorized under chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.); but

(B) does not include assistance authorized under any provision of law that is funded from accounts within budget function 050 (National Defense).

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title, other than section 204, $400,000,000 for each of the fiscal years 2010 through 2013.

(b) RELATION TO OTHER AVAILABLE FUNDS.—Amounts authorized to be appropriated to carry out this title for a fiscal year are in addition to amounts otherwise available for such purposes.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. COMPREHENSIVE REGIONAL SECURITY STRATEGY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the achievement of United States national security goals to eliminate terrorist threats and close safe havens in Pakistan requires the development of a comprehensive plan that utilizes all elements of national power, including in coordination and cooperation with other concerned governments, and that it is critical to Pakistan's long-term prosperity and security to strengthen regional relationships among India, Pakistan, and Afghanistan.

(b) COMPREHENSIVE REGIONAL SECURITY STRATEGY.—The President shall develop a comprehensive regional security strategy to eliminate terrorist threats and close safe havens in Pakistan, including by working with the Government of Pakistan and other relevant governments and organizations in the region and elsewhere, as appropriate, to best implement effective counterinsurgency and counterterrorism efforts in and near the border areas of Pakistan and Afghanistan, including the FATA, NWFP, parts of Balochistan, and parts of Punjab.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the comprehensive regional security strategy required under subsection (b).

(2) CONTENTS.—The report shall include a copy of the comprehensive regional security strategy, including specifications of goals, and proposed timelines and budgets for implementation of the strategy.

(d) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committees on Foreign Affairs and Armed Services of the House of Representatives and the Committees on Foreign Relations and Armed Services of the Senate.

SEC. 302. MONITORING AND EVALUATION OF ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) IMPACT EVALUATION RESEARCH.—The term "impact evaluation research" means the application of research methods and statistical analysis to measure the extent to which change in a population-based outcome can be attributed to program intervention instead of other environmental factors.

(2) OPERATIONS RESEARCH.—The term "operations research" means the application of social science research methods, statistical analysis, and other appropriate scientific methods to judge, compare, and improve policies and program outcomes, from the earliest stages of defining and designing programs through their development and implementation, with the objective of the rapid dissemination of conclusions and concrete impact on programming.

(3) PROGRAM MONITORING.—The term "program monitoring" means the collection, analysis, and use of routine program data to determine how well a program is carried out and how much the program costs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) to successfully enhance democracy and the rule of law in Pakistan, defeat extremist elements, and ensure the protection of human rights, the President should establish a program to conduct impact evaluation research, operations research, and program monitoring to ensure effectiveness of assistance provided under title I of this Act;

(2) long-term solutions to Pakistan's security problems depend on increasing the effectiveness and responsiveness of civilian institutions in Pakistan, including the parliament and judicial system;

(3) a specific program of impact evaluation research, operations research, and program monitoring, established at the inception of the program, is required to permit assessment of the operational effectiveness of impact of United States assistance towards these goals; and

(4) the President, in developing performance measurement methods under the impact evaluation research, operations research, and program monitoring, should consult with the appropriate congressional committees as well as the Government of Pakistan.

(c) IMPACT EVALUATION RESEARCH, OPERATIONS RESEARCH AND PROGRAM MONITORING OF ASSISTANCE.—The President shall establish and implement a program to

assess the effectiveness of assistance provided under title I of this Act through impact evaluation research on a selected set of programmatic interventions, operations research in areas to ensure efficiency and effectiveness of program implementation, and monitoring to ensure timely and transparent delivery of assistance.

(d) REQUIREMENTS.—The program required under subsection (c) shall include—

(1) a delineation of key impact evaluation research and operations research questions for main components of assistance provided under title I of this Act;

(2) an identification of measurable performance goals for each of the main components of assistance provided under title I of this Act to be expressed in an objective and quantifiable form at the inception of the program;

(3) the use of appropriate methods, based on rigorous social science tools, to measure program impact and operational efficiency; and

(4) adherence to a high standard of evidence in developing recommendations for adjustments to the assistance to enhance the impact of the assistance.

(e) ASSISTANCE TO ENHANCE THE CAPACITY OF PAKISTAN.—In carrying out the program required under subsection (c), the President is authorized to provide assistance to enhance the capacity of the Government of Pakistan to monitor and evaluate programs carried out by the national, provincial, and local governments in Pakistan in order to maximize the long-term sustainable development impact of such programs.

(f) CONSULTATION WITH CONGRESS.—Not later than 120 days after the date of the enactment of this Act, the President shall brief and consult with the appropriate congressional committees regarding the progress in establishing and implementing the program required under subsection (c).

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 105 for each of the fiscal years 2010 through 2013, up to 5 percent of such amounts for such fiscal year is authorized to be made available to carry out this section for the fiscal year.

SEC. 303. AUDITING.

(a) ASSISTANCE AUTHORIZED.—The Inspector General of the Department of State and the Inspector General of the United States Agency for International Development shall audit, investigate, and oversee the obligation and expenditure of funds to carry out title I of this Act.

(b) REQUIREMENT FOR IN-COUNTRY PRESENCE.—The Inspector General of the Department of State and the Inspector General of the United States Agency for International Development, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, are authorized to establish field offices in Pakistan with sufficient staff from each of the Offices of the Inspector General in Pakistan respectively to carry out subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under section 105 for each of the fiscal years 2010 through 2013, not less than $2,000,000 for each fiscal year is authorized to be made available to the Office of the Inspector General of the Department of State and not less than $2,000,000 for each fiscal year is authorized to be made available to the Office of the Inspector General of the United States Agency for International Development to carry out this section.

(2) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under paragraph (1) are in addition to amounts otherwise available for such purposes.

SEC. 304. REQUIREMENTS FOR CIVILIAN CONTROL OF UNITED STATES ASSISTANCE FOR PAKISTAN.

(a) REQUIREMENTS.—Any direct assistance provided or payments made on or after January 1, 2010, by the United States to the Government of Pakistan, and any information required by the United States prior to providing the assistance or making the payments, may only be provided or made to, or received from, civilian authorities of a government of Pakistan constituted through a free and fair election. For purposes of this subsection, a government of Pakistan constituted through a free and fair election is a government that is determined by the President to have been elected in a free and fair manner, taking into account the laws and constitution of Pakistan and internationally recognized standards.

(b) WAIVER.—The President may waive—

(1) the requirements under subsection (a), or

(2) the requirements under any other provision of law that restricts assistance to the government of any country whose duly elected head of government is deposed by military coup or decree, as such provision of law applies with respect to the Government of Pakistan,

if the President certifies to the appropriate congressional committees that the waiver is important to the national security interests of the United States.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall apply with respect to any activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.

SEC. 305. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Secretary of State, with the concurrence of the Secretary of Defense, should establish a coordinated, strategic communications strategy to engage the people of Pakistan—one that is fully funded, staffed, and implemented—to help ensure the success of the measures authorized by this Act; and

(2) the strategy should have clear and achievable objectives, based on available resources, and should be overseen by the United States Chief of Mission in Pakistan.

SEC. 306. REPORTS.

(a) REPORT BY PRESIDENT.—

(1) IN GENERAL.—The President shall transmit to the appropriate congressional committees a report on assistance provided under titles I and II of this Act during the preceding fiscal year. The first report shall be transmitted not later than 180 days after the date of the enactment of this Act and subsequent reports shall be transmitted not later than December 31 of each year thereafter.

(2) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(A) A detailed description of the assistance by program, project, and activity, as well as by geographic area.

(B) A general description of the performance goals established under section 302 and the progress made in meeting the goals.

(C) An evaluation of efforts undertaken by the Government of Pakistan to—

(i) disrupt, dismantle, and defeat al Qaeda, the Taliban, and other extremist and terrorist groups in the FATA and settled areas;

(ii) close terrorist camps, including those of Jamaat-ud-Dawa, Lashkar-e-Taiba, and Jaish-e-Mohammed;

(iii) cease all support for extremist and terrorist groups;

(iv) prevent cross-border attacks;

(v) increase oversight over curriculum in madrasas, including closing madrasas with direct links to the Taliban or other extremist and terrorist groups; and

(vi) improve counter-terrorism financing and anti-money laundering laws, apply for observer status for the Financial Action Task Force, and steps taken to adhere to the United Nations International Convention for the Suppression of Financing of Terrorism.

(D) A detailed description of Pakistan's efforts to prevent proliferation of nuclear-related material and expertise.

(E) An assessment of whether assistance provided to Pakistan pursuant to this Act has directly or indirectly aided the expansion of Pakistan's nuclear weapons program, whether by the diversion of United States assistance or the reallocation of Pakistan financial resources that would otherwise be spent for programs and activities unrelated to its nuclear weapons program.

(F) A description of the transfer or purchase of military equipment pursuant to title II of this Act, including—

(i) a list of equipment provided; and

(ii) a detailed description of the extent to which funds obligated and expended pursuant to section 203(b) meet the requirements of such section.

(G) An analysis of a suitable replacement for the AH–1F and AH–1S Cobra attack helicopters, which includes recommendations for sustainment, training, and any other matters determined to be appropriate.

(H) An assessment of the extent to which the Government of Pakistan exercises effective civilian control of the military, including a description of the extent to which civilian executive leaders and parliament exercise oversight and approval of military budgets, the chain of command, the process of promotion for senior military leaders, civilian involvement in strategic guidance and planning, and military involvement in civil administration.

(b) REPORT BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—Not later than April 1, 2011, the Comptroller General of the United States shall submit to the appropriate congressional committees a report evaluating the effectiveness of security assistance provided to Pakistan under title II of this Act during fiscal years 2010 and 2011.

(2) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(A) A detailed description of the expenditures made by Pakistan pursuant to grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program).

(B) An assessment of the impact of the assistance on the security and stability of Pakistan.

(C) An evaluation of any issues of financial impropriety on behalf of personnel implementing the assistance.

(D) An assessment of the extent to which civilian authorities are involved in administration of the assistance provided by the United States.

SEC. 307. SUNSET.

The authority of this Act, other than section 104, shall expire after September 30, 2013.

SUMMARY

H.R. 1886, the Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009 (the "Act") establishes a legislative foundation for a sustained partnership between the United States and Pakistan, based on a shared commitment to strengthening democracy and the rule of law, improving the living conditions of the people of Pakistan through sustainable economic development, and combating terrorism and violent extremism.

In Title I, the Act provides $6 billion over 4 years in democratic, economic and social development assistance for Pakistan. Such assistance is specifically targeted at: fortifying Pakistan's democratic institutions, including its parliament; enhancing Pakistan's judicial system and strengthening the professionalism of its law enforcement agencies; supporting broad-based and sustainable economic development through investments in energy sector reform, agricultural and rural development, employment opportunities, and infrastructure; developing human capacity at all levels of government and civil society; supporting Pakistan's public education system; promoting respect for and compliance with internationally recognized human rights; providing urgently needed healthcare assistance; and improving the effectiveness of public diplomacy through expanded exchange activities, sister-institution programs, and scholarships. The Act establishes a Pakistan Democracy and Prosperity Fund to integrate most non-military assistance and enhance flexibility, while demonstrating the long-term commitment of the United States as a partner to Pakistan's democracy. It also expresses the sense of Congress that Pakistan's growing number of Internally Displaced Persons and refugees requires the continued and concerted attention of the Administrator of the U.S. Agency for International Development.

In Title II, the Act: establishes a Pakistan Counterinsurgency Capabilities Fund, under the direction of the Secretary of State, to enhance the capability of Pakistan's security forces to conduct counterinsurgency and counterterrorism operations; provides financing for the purchase of defense articles, defense services and military education and training for Pakistan; and creates an exchange program to provide civilian and military personnel with skills and information to strengthen democratic, civilian control over Pakistan's military. Title II also establishes limitations on the

provision of U.S. military assistance and financial restrictions relating to the F–16 program.

Finally, in Title III, the Act: requires the President to develop a comprehensive regional security strategy to eliminate terrorist threats and close safe havens in Pakistan; mandates a robust monitoring and evaluation program for non-military assistance; and requires that all assistance, and all payment-related information, flow through duly elected civilian authorities.

The Department of Defense expressed concerns regarding H.R. 1886 as introduced, including in a letter responding to a request by the House Armed Services Committee and in testimony before that Committee. It is the Committee's view that section 206 of H.R. 1886, as introduced, establishes a fair, achievable means for the President to issue a determination regarding the Government of Pakistan's commitment to and progress towards combating terrorist groups and in other matters critical to the national security interests of the United States. Further, the Committee believes the above-referenced statements are no longer relevant in light of amendments made to H.R. 1886 by the Committee.

BACKGROUND AND PURPOSE FOR THE LEGISLATION

In keeping with the Administration's request, the bill authorizes assistance to address Pakistan's immediate security threats and mitigate the conditions that lead to instability. Pakistan currently faces an extremist-inspired insurgency, aimed at destabilizing the country. The Pakistan Taliban have spilled out of the Federally Administered Tribal Areas (FATA) and operate throughout the North West Frontier Province (NWFP) and Baluchistan. Meanwhile, al Qaeda and its allies continue to exploit these areas as safe havens. While U.S. forces in Afghanistan are considered to be the primary targets of attacks from the Taliban and al Qaeda forces taking refuge in Pakistan's western border areas, the extremists have increasingly shifted their focus to Pakistani targets.

The purpose of the legislation is to reiterate, in the strongest terms possible, that the United States stands with the people of Pakistan in their struggle against violent extremism. The bill reflects deep appreciation of the fact that it is in the U.S. national interest to create a long-term strategic partnership with Pakistan: one that addresses our mutual interest in combating terrorism *and* speaks to the needs of the average citizens of Pakistan—those who live in rural areas, without access to adequate education, healthcare, job opportunities or basic services, and who have suffered at the hands of a frequently dysfunctional and corrupt judicial system and police force.

The bill also outlines the expectations of the United States with regard to steps by the Government of Pakistan to establish a successful partnership against extremism and terrorism. Given that the United States has provided more than $12 billion in funding to Pakistan since 2001 while the situation on the ground has deteriorated, the legislation is intended to provide a new, more positive framework for U.S.-Pakistan relations.

In broad strokes, the intent of the legislation is to:

- Demonstrate unequivocally the long-term commitment of the United States to helping the people of Pakistan build a stable, democratic and prosperous future;
- Support consolidation of democratic institutions that reflect basic principles of good governance and protect internationally-recognized human rights and the rule of law;
- Help build the capacity of law enforcement forces in Pakistan to combat terrorism and a domestic insurgency, and expeditiously investigate, arrest, and prosecute alleged criminals, consistent with due process and the rule of law;
- Strengthen the duly elected civilian government of Pakistan by requiring that all assistance, and all payment-related information, flow through duly elected civilian authorities;
- Provide additional flexibility to the President to address the basic human needs of the people of Pakistan;
- Ensure that all democratic, social and economic development assistance directly benefits the people of Pakistan through proper monitoring and evaluation;
- Enhance the ability of the Government of Pakistan to conduct counterinsurgency operations, including through expanded military education and training; and
- Ensure adequate accountability measures for military assistance provided to the Government of Pakistan.

The Committee recognizes that Pakistan's precarious security situation stems, in part, from significant deficiencies in the government's ability to respond effectively to the needs and demands of the population. For that reason, the legislation authorizes $1.5 billion in non-military assistance to strengthen Pakistan's governing structures, including in the FATA, which has been governed since 1901 by the Frontier Crimes Regulation (FCR).

The legislation provides security assistance for the purpose of addressing Pakistan's core security threat: the Taliban-inspired insurgency. Partly due to a longstanding focus on conventional war fighting capabilities, Pakistan's security forces lack the capacity to wage effective counterinsurgency measures. As a result, the security threat to Pakistan's "settled areas," including even in Punjab and Sindh, is increasingly stark, particularly in light of the Taliban's recent incursions into Buner and its takeover of the Swat valley. The Committee expects that enhanced capabilities of Pakistan's security forces, including its police and civilian intelligence agency, will translate into increased readiness to tackle the Taliban insurgency and to combat al Qaeda and other extremist and terrorist groups. To ensure that the Pakistani military meets its commitments in this regard, the legislation includes accountability standards for military assistance.

Finally, the bill establishes rigorous monitoring and evaluation provisions to ensure the effectiveness of assistance provided under this Act. For too many years, U.S. assistance to Pakistan has been provided without specific goals and objectives, and we have often failed to obtain measurable or favorable results. The monitoring and evaluation provisions are intended to maximize the impact of non-military aid and ensure the appropriate use of such funds.

HEARINGS

The Committee held three hearings directly related to the subject of the bill. A Full committee hearing took place on May 5, 2009, entitled "From Strategy to Implementation: the Future of the U.S.-Pakistan Relationship," which explored U.S. strategy toward Pakistan and the rationale for increased levels of assistance. Witnesses included the Honorable Richard C. Holbrooke, Special Representative for Afghanistan and Pakistan; Ms. Lisa Curtis, Senior Research Fellow, the Heritage Foundation; Ms. Christine Fair, Senior Political Scientist, RAND Corporation; and Mr. Dan Markey, Senior Fellow for South Asia, Council on Foreign Relations.

The Subcommittee on the Middle East and South Asia conducted a hearing on February 26, 2009, entitled, "Building a Strategic Partnership: U.S.-India Relations in the Wake of Mumbai." Witnesses included the Honorable Karl F. Inderfurth, John O. Rankin Professor of the Practice of International Affairs, The Elliot School of International Affairs, the George Washington University; and Ms. Lisa Curtis.

The Subcommittee held a second hearing on April 2, 2009, entitled "U.S. Strategy for Afghanistan: Achieving Peace and Stability in the Graveyard of Empires." Witnesses included Karin von Hippel, Ph.D., Co-director, Post-Conflict Reconstruction Project, Center for Strategic and International Studies; Seth G. Jones, Ph.D., Political Scientist, the RAND Corporation; and Anthony H. Cordesman, Ph.D., Arleigh A. Burke Chair in Strategy, Center for Strategic & International Studies.

COMMITTEE CONSIDERATION

The Committee marked up H.R. 1886 on May 20, 2009, and favorably reported the bill to the House, as amended, by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

There were no recorded votes held on H.R. 1886.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with Clause 3(c) (2) of House Rule XIII, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1886, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 22, 2008.

Hon. HOWARD L. BERMAN, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1886, the PEACE Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Chin, who can be reached at 226–2840.

Sincerely,

DOUGLAS W. ELMENDORF

Enclosure

cc: Honorable Ileana Ros-Lehtinen
Ranking Member

H.R. 1886—PEACE Act of 2009.

SUMMARY

H.R. 1886 would establish a Pakistan Democracy and Prosperity Fund and authorize the appropriation of $1.5 billion a year over the 2010–2013 period—a total of $6 billion over four years—to provide nonsecurity assistance to Pakistan. The bill also would establish a Pakistan Counterinsurgency Capabilities Fund and authorize the appropriation of $700 million in 2010 and such sums as may be necessary over the 2011–2013 period—an estimated total of $2.9 billion over four years—for counterinsurgency and counterterrorism assistance to Pakistan. Finally, the bill would authorize the appropriation of $400 million a year over the 2010–2013 period—a total of $1.6 billion over four years—for other security assistance to Pakistan.

CBO estimates that implementing the bill would cost $9.1 billion over the 2010–2014 period, assuming appropriation of the authorized and estimated amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 1886 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1886 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

By Fiscal Year, in Millions of Dollars

	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Pakistan Democracy and Prosperity Fund						
Authorization Level	1,500	1,500	1,500	1,500	0	6,000
Estimated Outlays	279	836	1,137	1,351	1,175	4,778
Pakistan Counterinsurgency Capabilities Fund						
Estimated Authorization Level	700	711	725	744	0	2,880
Estimated Outlays	470	680	716	734	240	2,840
Security Assistance for Pakistan						
Authorization Level	400	400	400	400	0	1,600
Estimated Outlays	163	326	373	391	233	1,486
Total Changes						
Estimated Authorization Level	2,600	2,611	2,625	2,644	0	10,480
Estimated Outlays	912	1,842	2,226	2,476	1,648	9,104

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2009, that the authorized and estimated amounts will be appropriated each fiscal year, and that outlays will follow historical spending patterns for similar activities.

Pakistan Democracy and Prosperity Fund

Section 104 would establish a permanent Pakistan Democracy and Prosperity Fund in the U.S. Treasury to provide all social and economic development assistance to Pakistan. Section 105 would authorize the appropriation of $1.5 billion a year over the 2010–2013 period to provide such nonsecurity assistance. CBO estimates that implementing this program would cost about $4.8 billion over the 2010–2014 period.

Section 104 also would authorize the President to accept funds from other governments and nongovernmental sources for nonsecurity assistance to Pakistan. To the extent those amounts were provided in advance in appropriations acts, the President would be authorized to make them available to the Pakistan Democracy and Prosperity Fund. Any such donations would increase offsetting collections (a credit against discretionary spending) and the spending of those collections would count as new discretionary spending. CBO estimates that initially the fund would receive and spend donations of less than $500,000 a year, but that those amounts could be significant in later years. However, any collections and spending would offset each other, so we estimate that, on net, such collections would not have a significant budgetary impact in any year.

Pakistan Counterinsurgency Capabilities Fund

Section 204 would establish a Pakistan Counterinsurgency Capabilities Fund in the U.S. Treasury to provide counterinsurgency and counterterrorism assistance to Pakistan. This section would authorize the appropriation of $700 million in 2010 and such sums as may be necessary over the 2011–2013 period to provide such assistance. CBO estimates that appropriations would remain at 2010 levels, adjusted for inflation, through 2013. The Secretary of State would be authorized to use amounts in this fund with the concurrence of the Secretary of Defense, and would be further authorized

to transfer amounts in the fund to the Department of Defense or other agencies for the same purposes. CBO estimates that implementing section 204 would cost about $2.8 billion over the 2010–2014 period.

Security Assistance for Pakistan

Section 207 would authorize the appropriation of $400 million a year over the 2010–2013 period for other security assistance to Pakistan. Of the authorized amounts, a minimum of $300 million a year would be to provide grants under the Foreign Military Financing program and no less than $4 million a year would be provided for assistance under the International Military Education and Training program. The Secretary of State also would be authorized to establish a Pakistan Military Transition Program, an exchange program between military and civilian personnel of Pakistan, countries in transition to democracy, and North Atlantic Treaty Organization member countries. CBO estimates that implementing those provisions would cost about $1.5 billion over the 2010–2014 period.

Limitation on Military Assistance

Section 206 would prohibit certain military assistance to Pakistan after 2010 unless the President determines that the Government of Pakistan is continuing to cooperate with the United States in nonproliferation efforts and has demonstrated a sustained commitment to and making progress towards combating terrorist groups. The bill would allow the President to waive those requirements in the interests of national security. CBO expects that the President would exercise the waiver authority if he were unable to make the necessary determination, and thus, CBO estimates that implementing this section would have no significant effect on spending.

INTERGOVERNMENTAL AND PRIVATE–SECTOR IMPACT

H.R. 1886 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY:

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PERFORMANCE GOALS AND OBJECTIVES

The Act is intended to provide democratic, economic, and social development assistance, and security assistance, to Pakistan to strengthen the country's democratic infrastructure, enhance its security, and improve the welfare of the people of Pakistan.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d) (1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

NEW ADVISORY COMMITTEES

H.R. 1886 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 1886 does not apply to the Legislative Branch.

EARMARK IDENTIFICATION

H.R. 1886 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title.

This section provides that the short title of the Act is the "Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009," or the "PEACE Act of 2009."

Section 2. Definitions.

This section defines terms for use in the Act. The definition of "counterinsurgency" is specific to the type of assistance currently needed by the security forces of Pakistan to address the grave national security threats against that country.

Section 3. Findings.

This section articulates the findings that frame the U.S.-Pakistan relationship and the purpose of the bill. It describes Pakistan's recent return to civilian rule, after almost nine years under a military dictatorship, and notes that Pakistan has been a critical ally of the United States for more than four decades. The section also highlights Pakistan's recent military operations against the Taliban in the Bajour agency of the FATA and in the Swat, Buner, and Dir districts of the NWFP, and the subsequent displacement of over one million Pakistanis.

Section 4. Declaration of Principles.

This section lists the principles on which Congress believes the U.S.-Pakistan relationship should be based. It states that Pakistan is a critical friend and ally to the United States and that the two countries share many common goals; that U.S. assistance to Pakistan is intended to supplement, not supplant, Pakistan's own efforts in building a strong Pakistan, and that U.S. assistance will be ineffective without Pakistan's own efforts to improve the lives of its citizens; and that the U.S. supports Pakistan's struggle against extremist and terrorist groups. The section further declares that the United States intends to work with the Government of Pakistan to build mutual trust and confidence; to consolidate de-

mocracy, expand good governance and enhance the rule of law; to promote long-term development and infrastructure projects; to encourage sustainable development and the integration of Pakistan into the global economy; to ensure access to public, modernized education and vocational training; to expand people-to-people engagement between the two countries; to ensure transparency and accountability of U.S. assistance; to improve laws to combat terrorism financing and money laundering; to establish a strategy to prevent any territory of Pakistan from being used as a base or a conduit for terrorist attacks; to ensure strong and effective law enforcement and national defense, under civilian leadership; to ensure access of U.S. investigators to individuals suspected of engaging in nuclear proliferation; to deny support to any person or group that seeks to instill fear or terror among Pakistan's neighbors; and to help Pakistan gain control of its under-governed areas.

TITLE I—DEMOCRATIC, ECONOMIC, AND SOCIAL DEVELOPMENT ASSISTANCE FOR PAKISTAN.

Title I authorizes assistance to Pakistan to strengthen its democratic institutions and promote economic and social development. Title I also authorizes a Pakistan Democracy and Prosperity Fund to integrate the funding streams of most non-military assistance.

Section 101. Purposes of Assistance.

This section establishes the purposes of assistance under Title I. These purposes are: to demonstrate the long-term commitment of the United States to the people of Pakistan; to support the consolidation of democracy, good governance, and the rule of law in Pakistan; to help build the capacity of law enforcement forces in Pakistan to combat terrorism and violent militancy; to further the sustainable and effective economic and social development of Pakistan and the improvement of living conditions; to strengthen regional ties between Pakistan and its neighbors; to strengthen Pakistan's public education system; to expand people-to-people engagement between the United States and Pakistan; and to strengthen respect for internationally-recognized human rights. The committee is aware that the achievement of many of these goals will be arduous and will require sustained efforts. Nonetheless, such efforts are necessary, in the Committee's view, to ensure Pakistan's long-term security, stability and prosperity.

Section 102. Authorization of Assistance.

This section authorizes the President to provide assistance for Pakistan to carry out the provisions of section 101.

Subsection (b) spells out nine general categories of assistance. Collectively, these categories constitute the bulk of democratic, social and economic development assistance to be provided to Pakistan.

Paragraph 102(b)(1) authorizes assistance to support, notwithstanding any other provision of law, democratic institutions in Pakistan in order to strengthen civilian rule and long-term stability in Pakistan. Such assistance may include activities to strengthen Pakistan's Parliament, including both the Senate and National Assembly. It is the Committee's view that democracy in Pakistan will be strengthened by the enhancement of that coun-

try's core democratic institution—the Parliament—and that support provided pursuant to this section could enhance the Parliament's ability to conduct oversight over Pakistan's national institutions, particularly the military. Such assistance may also include the training of Parliamentary Committee staff; support for political parties; and support for the efforts of the Government of Pakistan to extend the writ of governance to the FATA and those currently living under the FCR so that all Pakistanis may have the same rights and responsibilities.

Paragraph 102(b)(2) authorizes assistance to support, notwithstanding any other provision of law, Pakistan's efforts to expand the rule of law and build the capacity of government institutions. The Committee believes that access to justice should be a particularly critical aspect of U.S. assistance. The Committee is aware that the paucity of judges in Pakistan is a key retardant to strengthening of the rule of law, and that some experts believe this shortage is a result of constitutional and legal hurdles within Pakistan. The Committee also believes that the majority of courts in Pakistan are located in municipal areas and that the current structure does not adequately take into account the organic growth of Pakistan's cities and the difficulties involved for litigants to travel to urban centers. The Committee intends that assistance authorized pursuant to this section be used to expand the number of courts, particularly in rural areas. The Committee further intends that in addition to expansion to the number of judges and courtrooms, assistance should be used to improve the quality of judges. The Committee believes that judges require training before and during their tenures. Finally, as the success of the U.S. strategy to help Pakistan combat terrorists and insurgents is based in large part on the ability of the police to effectively conduct counterterrorism and counterinsurgency operations, the Committee strongly believes that such forces should be professionalized and further trained in basic criminal investigatory techniques. The Committee also believes that the Intelligence Bureau, operating under the auspices of the Ministry of Interior, should be expanded so that proper counterinsurgency operations can be conducted, particularly in the FCR governed areas.

Paragraph 102(b)(3) authorizes assistance for economic development, including increased investment in infrastructure, the promotion of energy sector reform and development, and increased employment opportunities. Although direct budgetary support is not prohibited by this section, it is the Committee's view that such support should be minimized for the purposes described in this paragraph.

Paragraph 102(b)(4) authorizes assistance to increase the capacity and improve the sustainability of Pakistan's national, provincial and local non-governmental institutions. The Committee intends that such assistance strengthen the ability of Pakistan's governmental institutions to respond directly to the needs of the people of Pakistan in an accountable and transparent fashion. The Committee is aware that non-governmental organizations play an integral role in providing services for the people of Pakistan; assistance authorized should be directed at those organizations with demonstrated experience in delivering services to women, children, and other vulnerable populations. Assistance shall not be provided to

organizations linked with al Qaeda, the Taliban, or other extremist or terrorist groups.

Paragraph 102(b)(5) authorizes assistance to support Pakistan's education system, in particular by buttressing Pakistan's public school system and working in partnership with its private schools. The Committee expresses concern regarding the dearth of modern educational opportunities for the average Pakistani citizen, notwithstanding legal requirements in Pakistan regarding oversight of educational institutions. The Committee intends that assistance directly address access to education, particularly for women and girls. The Committee further intends that vocational training be a critical component of assistance.

Paragraph 102(b)(6) authorizes assistance to promote respect for and compliance with internationally recognized human rights. The Committee remains concerned about reports of human rights abuses perpetrated by law enforcement and security forces, including unlawful detention of Pakistani citizens and suppression of freedom of expression. A critical component of counterinsurgency is "holding" territory previously occupied by insurgents. To perform this function, the Committee believes that security forces must earn and maintain the respect of the local populace. The Committee is particularly committed to ensuring that security forces receive human rights training to perform the "hold" function, and respect the different ethnic groups of Pakistan. The Committee is also aware of the ongoing practice of "honor killings" and other forms of cruel and unusual punishment; the Committee intends that assistance authorized shall support programs to end such practices.

Paragraph 102(b)(7) expresses the Committee's view that the United States should continue to provide robust assistance to the people of Pakistan who have been displaced as a result of ongoing conflict and violence. The Committee endorses the efforts of U.S. agencies currently engaged in such support activities, including the U.S. Agency for International Development. The Committee further notes its concern for the increasing number of displaced persons as a result of the Government of Pakistan's recent military operations in the FATA and NWFP. The massive displacement of civilians highlights the need to ensure the security forces of Pakistan are well trained in counterinsurgency and irregular warfare and that they take steps to prevent such displacement.

Paragraph 102(b)(8) authorizes assistance to provide urgently needed healthcare assistance to the people of Pakistan. The Committee intends such assistance to address a range of diseases, including hepatitis, affecting a large percentage of the people of Pakistan.

Paragraph 102(b)(9) authorizes support for the United States to implement an effective public diplomacy strategy in Pakistan. This subsection highlights a critical component in fighting a Taliban-led insurgency—countering the propaganda of extremists. To that end, this subsection highlights the need to work with the Government of Pakistan to empower Pakistan's civil society to speak out against militancy and extremism. The Committee believes that the Government of Pakistan can play an important role in this effort by disrupting and providing alternatives to the illegal FM radio stations that insurgent groups have used to broadcast hate and issue death

sentences upon Pakistani citizens. The subsection also reiterates the Committee's view that exchanges among U.S. and Pakistani citizens will bolster mutual understanding and cooperation among our two nations.

Section 103. Multilateral Support for Pakistan.

Section 103 encourages the President to take the lead in mobilizing international financial institutions to provide assistance to Pakistan. Subsection 103(1) highlights the role of the International Monetary Fund and other international organizations in supporting Pakistan during its current economic crisis. Subsection 103(2) underscores the need for a plan of the Government of Pakistan to address structural economic problems.

Section 104. Pakistan Democracy and Prosperity Fund.

Subsection 104(a) establishes a fund in the U.S. Treasury to be known as the "Pakistan Democracy and Prosperity Fund." This Fund would provide flexibility to the President to address non-military challenges in Pakistan and communicate in the strongest possible terms to the people of Pakistan that the United States intends to make a long-term commitment to that country. Once authorized, the Fund would integrate critical funding sources into one spigot. Subsection 104(b) provides that the fund would consist of the following: (1) amounts appropriated directly into the fund; (2) amounts transferred into the fund from three major accounts under the Foreign Assistance Act of 1961, including Development Assistance, Global Health and Child Survival, and Economic Support Funds; or (3) amounts provided to the United States from non-U.S. Government sources, including foreign governments and private business entities. Subsection 104(c) allows the President to accept funds from non-U.S. Government sources, including foreign governments, nongovernmental organizations, private businesses, and private individuals. Subsection 104(d) authorizes the President to merge funds transferred into the account.

Section 105. Authorization of Appropriations.

This section authorizes $1.5 billion for each of the fiscal years 2010 through 2013. This figure meets the President's request for $1.5 billion in democratic, social, and economic development assistance to Pakistan.

TITLE II—SECURITY ASSISTANCE FOR PAKISTAN.

Title II authorizes security assistance to Pakistan, including training and equipment, to enable Pakistan's security forces to better combat terrorism and counter its domestic insurgency. Title II authorizes a Pakistan Counterinsurgency and Capabilities Fund in the Department of State. Finally, title II establishes accountability measures for U.S. security assistance to Pakistan.

Section 201. Sense of Congress

This section articulates the Committee's view that military assistance to Pakistan should strengthen the ability of Pakistan's security forces to defeat extremism. The Committee remains mindful that elements of the Government of Pakistan have reportedly provided assistance to terrorist entities, and is adamant that U.S. as-

sistance shall not be provided to any entity that provides such support.

Section 202. Purposes of Assistance.

This section expresses the fundamental purposes of U.S. security assistance to Pakistan, including building the capacity of Pakistan's security forces; reaching out to the "lost generation" of Pakistan's officers who did not attend U.S.-sponsored training; and facilitating a positive relationship between the defense forces of Pakistan and the United States. Since 2001, Pakistan has received massive amounts of security assistance, primarily in the form of Coalition Support Funds (CSF) and Foreign Military Financing (FMF). It is the Committee's view that such funds have not created the political will or the capabilities within Pakistan's security forces to effectively conduct counterinsurgency operations. Rather, FMF has been used primarily to facilitate the purchase of F–16 aircraft in preparation for conventional military operations. Notwithstanding this history, the Committee believes the FMF program remains a viable mechanism to build the capacity of Pakistan's security forces to conduct counterinsurgency and should be the principal source of U.S. security assistance.

Section 203. Authorization of Assistance.

This section authorizes military assistance to Pakistan. Subsection (a) authorizes not less than $4,000,000 for the International Military Education and Training (IMET) program. The Committee believes that military-to-military exchanges fostered by the IMET program constitute a critical component of the relationship between the U.S. and Pakistan. The application of the Pressler Amendment—under which the President was unable to certify that Pakistan did not possess a nuclear weapon—interrupted such exchanges, and the Committee intends that an increase in funding for the IMET program will help ameliorate the resulting deleterious effects. In light of the insurgency threat against Pakistan, the Committee requires that not less than 30 percent of the amount authorized for IMET be used to pay for courses in counterinsurgency and civil-military relations. This is to ensure that the next generation of senior Pakistani military leaders are comfortable with counterinsurgency strategy and doctrine and support civilian leadership of the military.

Subsection (b) authorizes assistance for FMF. Paragraph (2) requires that not less than 75 percent of the amount authorized for FMF be used for the purchase of defense articles, services, and military education and training for activities relating to counterinsurgency and counterterrorism operations. The Committee intends to target FMF in this manner to ensure that such funds are used to address Pakistan's growing insurgency. The Committee fully recognizes that Pakistan continues to perceive neighboring countries as an existential threat and trains and equips its military accordingly. Simultaneously, the Committee believes that the Government of Pakistan must have the political will and the capabilities to address unconventional military threats. The described percentages are intended to ensure that U.S. assistance facilitate Pakistan's acquisition of such capabilities.

Paragraph 203(b)(3) restricts the use of FMF for the purchase of, or upgrade to, F–16 fighter aircraft or related munitions. This restriction stems from the Committee's belief that F–16 fighter aircraft are not effective counterinsurgency tools. The restriction encapsulates the spirit and letter of the agreements signed between the United States and Pakistan in 2006, which provide that Pakistan would pay for its F–16 program with its own national funds.

Section 204. Pakistan Counterinsurgency Capabilities Fund.

Subsection 204(a) establishes a fund in the U.S. Treasury to be known as the Pakistan Counterinsurgency Capabilities Fund. The fund shall be comprised of two sources of funds: (1) Amounts appropriated directly into the fund; and (2) amounts appropriated on or after the date of the enactment of this act to carry out the provisions of chapter 8 of part I and chapters 2, 5, 6, and 8 of part II of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act. Subsection (c) establishes that the purpose of the fund is to enhance the capability of Pakistan to conduct counterinsurgency and counterterrorism operations. The fund stems from the Committee's view that Pakistan requires immediate and urgent assistance to develop counterinsurgency capabilities. This view is shared by the Administration and senior U.S. military leadership. However, the Committee also believes that such assistance should be provided by the Secretary of State, with the concurrence of the Secretary of Defense. The Secretary of State has the statutory responsibility of coordinating military assistance to ensure that such assistance supports foreign policy objectives and that U.S. civilians are ultimately responsible for the bilateral relationship with a recipient country. The Committee remains cautious regarding the Department of Defense's expanding role in security assistance globally and in Pakistan in particular. The Committee does not believe that moving such funds through the Department of Defense is ultimately beneficial to the bilateral relationship with Pakistan or provides a comparative advantage, since FMF and other security assistance programs under the Secretary of State rely on similar mechanisms for implementation. The Committee supports the request of the Administration for flexible authority to address Pakistan's urgent security needs, but the Committee strongly believes that such assistance must, at a minimum, comply with end-use monitoring provisions in light of Pakistan's history of unauthorized transfers or use of U.S. military equipment. The Committee intends that the authority provided in section 204 to notwithstand other provisions of law should be interpreted broadly by the Department of State to ensure expeditious and flexible provision of equipment and training to Pakistan. Subsection (i) authorizes $700,000,000 for fiscal year 2010 and such sums as may be necessary for each of fiscal years 2011 through 2013.

Section 205. Exchange Program Between Military and Civilian Personnel of Pakistan and Certain Other Countries.

This section authorizes the Secretary of State to establish an exchange program between military and civilian personnel of Pakistan and military and civilian personnel of countries determined by the Secretary of State to be in transition to democracy or military and civilian personnel of North Atlantic Treaty Organization

(NATO) member countries. The Committee is mindful that Pakistan is in the process of transition from military rule. The Committee intends that this program provide "lessons learned" to Pakistani civilian and military officials from personnel from countries that recently underwent similar transitions to democracy or from NATO members, and that the program be designed to provide Pakistani participants with the tools and information to consolidate effective, democratic, civilian control over the military.

Section 206. Limitation on United States Military Assistance to Pakistan.

This section imposes accountability provisions on military assistance to Pakistan. Subsection (a) provides that none of the funds authorized to be appropriated for military assistance for fiscal year 2011 and each fiscal year thereafter may be obligated or expended unless the President makes the determination described in subsection (c). The purpose of this provision is to ensure that Pakistan lives up to commitments it provided to the United States in the past to cease all support, guidance, and direction for extremist and terrorist groups. The Committee is particularly mindful of the increasing casualties among U.S. personnel by Taliban fighters crossing between the Afghan and Pakistani border. The Committee believes that the approach to date of providing assistance sans accountability has failed, and that such conditions—specified by Congress—are achievable by the President.

Subsection (b)(1) requires the President to make a determination that the Government of Pakistan is continuing to cooperate with the United States in efforts to dismantle supplier networks relating to nuclear weapons materials, including, as necessary, providing direct access to Pakistani nationals associated with such networks. Pakistan's history of nuclear development and Dr. Abdul Qadeer Khan's establishment of a nuclear proliferation network remain a source for concern to many in the United States, particularly since the Committee understands that representatives of the United States have not interviewed certain individuals involved in the network. The Committee believes the United States should continue to engage the Government of Pakistan on the network, and should, as necessary, obtain direct access to the individuals covered by this subsection, including Dr. Khan. The Committee also maintains strong concerns regarding recent reports of Pakistan expansion of its nuclear arsenal. Given the expanding threat of Pakistan's domestic insurgency, the Government of Pakistan's further development of nuclear materials appears inconsistent with its immediate security threats and is unhelpful in the context of efforts to strengthen U.S.-Pakistani relations.

Subsection (b)(2) requires the President to issue a determination that Pakistan has demonstrated a sustained commitment to and is making progress toward: (A) ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against the United States or coalition forces in Afghanistan, or against the territory or people of neighboring countries, specifically Afghanistan and India; (B) closing terrorist camps in the FATA and dismantling terrorist bases in Quetta and Muridke; (C) preventing cross border attacks into Afghanistan or

India; and (D) strengthening counterterrorism and anti-money laundering laws. The President should take into account the progress the Government of Pakistan has made with regard to the steps specified in the subsection.

Subsection (e)(2) confirms that Section 204 applies solely to assistance authorized under provisions of law funded from accounts within budget function 150.

Section 207. Authorization of Appropriations.

This section authorizes $400 million for each of the fiscal years 2010 through 2013.

TITLE III—MISCELLANEOUS PROVISIONS.

Title III requires the President to develop a comprehensive regional strategy to eliminate terrorist threats and close safe havens in Pakistan, and to establish a rigorous monitoring and evaluation program. Title III also requires a Presidential report on assistance provided under the Act each fiscal year, including an evaluation of efforts undertaken by the Government of Pakistan to combat terrorism, a detailed description of Pakistan's efforts to prevent proliferation, and an assessment of the extent to which the Government of Pakistan exercises effective civilian control over its military.

Section 301. Comprehensive Regional Security Strategy.

This section requires the President to develop a comprehensive regional strategy to eliminate terrorist threats and close safe havens in Pakistan. The Committee strongly believes that in order for the United States to protect its national security interests in the region, the United States must first develop a comprehensive regional strategy that utilizes all elements of smart power—defense, diplomacy and development—and works to strengthen regional relationships between India, Pakistan, and Afghanistan. Coordination between these core countries, along with neighboring Iran and Saudi Arabia, will be necessary if the United States is to create a viable strategy for peace and security. Subsection(c) requires the President to submit to Congress a report on the strategy not later than 180 days after the enactment of the Act.

Section 302. Monitoring and Evaluation of Assistance.

This section requires the President to establish and implement a program to assess the effectiveness of assistance provided under Title I of the Act. Such a program will ensure that assistance provided under the Act will be subject to rigorous monitoring and evaluation and that the programs are implemented in a timely, effective, efficient and transparent manner.

Subsection (a) defines terms used in the section. Subsection (b) expresses the sense of Congress regarding the importance of program monitoring and evaluation to achieving the goals of enhancing democracy and the rule of law and providing long-term solutions to Pakistan's security problems. Subsection (c) requires the President to establish and implement a program to assess the effectiveness of assistance provided under Title I of the Act through impact evaluation research, operations research and monitoring. Subsection (d) sets out the requirements of the monitoring and evalua-

tion program, including delineation of key impact evaluation research and operations research questions, identification of measurable performance goals, use of rigorous social science methods to measure program impact and operational efficiency, and adherence to a high standard of evidence in developing recommendations for adjustments to assistance. Subsection (e) authorizes the President to build the capacity of the Government of Pakistan to conduct monitoring and evaluation programs. Subsection (f) requires the President, not later than 120 days after enactment of the Act, to brief and consult with Congress on progress made toward establishing and implementing a monitoring and evaluation program as required under subsection (c). Subsection (g) allows up to 5 percent of amounts authorized to be appropriated under section 105 to be made available to carry out this section in each fiscal year.

Section 303. Auditing.

This section provides for the oversight by Inspectors General of expenditures under this Act. Subsection (a) requires the Inspectors General of the Department of State and of the U.S. Agency for International Development to audit, investigate, and oversee the obligation and expenditure of funds to carry out Title I of this Act. Subsection (b) authorizes these Inspectors General, after consultation with the Secretary of State and USAID Administrator, to establish field offices in Pakistan. Subsection (c) authorizes not less than $2,000,000 for each of the fiscal years 2010 through 2013 to be made available for each Inspector General in order to carry out this section, in addition to amounts otherwise available for such purposes.

Section 304. Requirements for Civilian Control of U.S. Assistance for Pakistan.

This section requires that any direct United States assistance provided or payments made to Pakistan, shall be provided to civilian authorities of a government of Pakistan constituted through a free and fair election. To the extent civilian authorities currently receive such assistance or payments from the United States and have full transparency of related receipts and documentation, including specific knowledge of expenditures, the Committee supports the existing processes for such assistance and payments.

Section 305. Sense of Congress.

This section expresses the strong sense of Congress that the Secretary of State, working with the Secretary of Defense, should establish a comprehensive strategic communications strategy for Pakistan. Such a strategy must engage the average Pakistani, be fully staffed, funded and implemented, and be overseen by the U.S. Ambassador to Pakistan.

Section 306. Reports.

Subsection (a) requires the President to transmit a written report on assistance authorized under titles I and II not later than 180 days after the date of the enactment of the Act, with annual reports transmitted not later than December 31 each year thereafter.

Each report shall include: a detailed description of assistance by program, project, activity, and geographic area; a general descrip-

tion of the performance goals and progress towards those goals, as outlined in section 302; an evaluation of efforts undertaken by the Government of Pakistan to disrupt, dismantle and defeat al Qaeda, the Taliban, and other extremist and terrorist groups, close terrorist camps, including Jaish-e-Mohammed, Lashkar-e-Taiba, and Jamaat-ud-Dawa—which serves as an umbrella organization for Lashkar-e-Taiba and other terrorist groups; cease all support for terrorist groups; prevent cross-border attacks; increase oversight of madrasas, including closing madrasas with direct links to extremist and terrorist groups; and improve counterterrorism financing and anti-money laundering laws. The reports shall also contain: a description of Pakistan's efforts to prevent proliferation of nuclear-related material and expertise; an assessment of whether assistance provided to Pakistan has directly or indirectly aided the expansion of Pakistan's nuclear weapons program, whether by the diversion of U.S. assistance or reallocation of Pakistan financial resources that would otherwise be spent for programs and activities unrelated to its nuclear weapons program; a description of the transfer or purchase of military equipment pursuant to the Act, including a list of equipment provided and a description of funds obligated and expended pursuant to section 203(b); an analysis of a suitable replacement for the AH–1F and AH–1S Cobra attack helicopters, which Pakistan currently relies upon for its counterinsurgency operations; and an assessment of the extent to which the Government of Pakistan exercises effective civilian control of the military.

Subsection (b) requires that the Comptroller General of the United States submit to the appropriate Congressional committees a report evaluating the effectiveness of security assistance providing to Pakistan under title II during fiscal years 2010 and 2011.

The report is required to include a description of the expenditures made by Pakistan pursuant to grant assistance under section 23 of the Arms Export Control Act; an assessment of the impact of the assistance on the security and stability of Pakistan; an evaluation of any issues of financial impropriety on behalf of those personnel implementing the assistance; and an assessment of the extent to which civilian authorities are involved in administration of the assistance provided by the United States.

Section 307. Sunset.

This section provides that the authorities in the Act, other than section 104 (Democracy and Prosperity Fund), will expire after September 30, 2013. The Committee intends that the Democracy and Prosperity Fund shall remain in effect after the expiration of this Act to demonstrate the long-term commitment of the United States to Pakistan.

ADDITIONAL VIEWS

At the outset, the Minority would like to emphasize we support the administration's goals toward Pakistan.

We want a long-term partnership with a modern, prosperous and democratic Pakistan that is at peace with itself and with its neighbors.

We want a Pakistan that maintains robust controls over its nuclear weapons technology.

And we want a Pakistan that does not provide safe haven to al Qaeda, the Taliban, and other militant extremists.

While the Minority appreciates the hard work that has gone into this bill, and the incorporation of some elements suggested by our side, serious concerns remain.

In addition, the Chairman's amendment in the nature of a substitute approved by the Committee does include certain helpful changes, such as the inclusion of more flexible waiver standards for sections 203(b)(3) and 206.

On the whole, however, we are concerned that the size and tenor of the bill still leave the impression that Congress is endeavoring to micromanage U.S. policy toward Pakistan at a delicate time when the new administration has yet to even develop an implementation plan for its still evolving strategy.

As Secretary of Defense Gates and Chairman of the Joint Chiefs of Staff Mullen wrote to the Armed Services Committee last month:

"The degree of conditionality and limitations on security assistance to Pakistan" in H.R. 1886 "severely constrains the flexibility necessary for the Executive Branch and the Department of Defense given the fluid and dynamic environment that exists in Pakistan."

This concern is particularly acute, in light of the current Pakistani military offensive against the Taliban and other extremists in Swat and adjacent areas of the Northwest Frontier Province.

Instead, the Minority offered a Republican substitute which distilled the insight and input of the national security committees to ensure maximum coordination and, to some degree, emulated the Administration's interagency strategic review of U.S. policy toward Pakistan and Afghanistan.

A parallel bill has also been introduced with respect to Afghanistan as it is our belief that Pakistan cannot and must not be considered in a vacuum.

These countries are part of a wider theater of operations and must be dealt with as part of one package, when practical, as the Administration has suggested following the conclusion of its strategic review.

The Republican substitute recognized that of all the foreign policy challenges facing the Obama Administration, stabilizing and reforming Pakistan may be one of the most daunting.

Given the enormous complexities of the situation in Pakistan, as well as rapidly changing conditions on the ground, we believe it is critical at this stage that the administration—White House, Defense, and State—retain the necessary flexibility to craft policies that offer the best chance of successfully partnering with the Pakistani government and people to defeat violent extremism.

At the same time, the substitute required an ongoing policy dialogue between the administration and the Congress regarding evolving U.S. policy toward Pakistan, as well as robust Congressional oversight of our strategy, implementation plan, and allocation and expenditure of U.S. assistance.

Accordingly, the text of the defeated Republican substitute would have:

- Required that not later than 30 days after the enactment of the Supplemental Appropriations Act for 2009 (passed by the House last week and on the Senate Floor this week), the President submit to Congress a comprehensive interagency strategy and implementation plan for U.S. efforts to eliminate safe havens and assist toward the long-term security and stability in Pakistan.

In doing so, it required that the strategy and implementation plan include:

- A description of how U.S. assistance will be used to achieve U.S. foreign policy objectives;
- Progress on achieving these objectives;
- A financial plan and description of the resources, programming, and management of U.S. assistance to Pakistan and the criteria used to determine their need and value in advancing U.S. objectives.

The Republican substitute fully funded the administration's pending request for nonmilitary assistance ($1.5 billion) and provided "such sums as may be deemed necessary" through 2013.

In this context, it is important to highlight that the substitute sought to ensure that Congressional oversight and notification keeps pace with changing conditions on the ground and, in turn, changes in strategy and implementation.

It also required quarterly briefings on developments in Pakistan, as well as written notification to the Congress of adjustments in strategy and related changes in allocations and expenditures.

The Republican substitute also fully funded the administration's request for the critically important new Pakistan Counterinsurgency Capability Fund (PCCF).

General David Petraeus, head of US Central Command, has described this fund as a vital tool to provide our senior military representative in Pakistan with "swift access to funding to counter and perhaps prevent emerging threats and to rapidly enhance Pakistani counterinsurgency capabilities."

In short, the Republican substitute is tailored to meet the pressing requirements for United States national security at this critical hour for Pakistan, while laying the groundwork for long-term security and stability in Pakistan, Afghanistan, and the wider region, and preserving appropriate Congressional oversight mechanisms.

As noted previously, despite some improvements contained in the Chairman's amendment in the nature of a substitute, we continue to be concerned that the bill is overly prescriptive and does not provide appropriate latitude to the executive branch.

In this regard, the measure contains an excessive amount of authorization language delving into the minutest details of how the administration should be providing assistance to Pakistan across a wide range of programs and activities.

For example, as strongly as we support innovative education assistance that will be supported and sustained by Pakistanis over time, we wonder whether it is appropriate to suggest that the American taxpayer should be responsible, in whole or in part, for funding to "increase teacher salaries," develop "formalized salary scales with merit-based pay increases," as well as "food assistance for student meals." Even if these provisions are meant merely to be illustrative, the cumulative effect of this and similar language suggests a degree of intrusiveness to Congressional and U.S. engagement with Pakistan that is probably unwise.

Likewise, the amended bill contains a limitation on how the executive branch may use grant assistance under the Foreign Military Sales program. While we share the view of the Majority that the bulk of FMF funds should be used to further counterterrorism and counterinsurgency priorities of both Pakistan and the United States, we do not pretend to know what percentage that should be and would prefer to leave reasonable latitude to the executive branch to make that determination.

We welcome the inclusion in the Majority's substitute of full funding for FY 2010 of new authorities sought by the administration to create a Pakistan Counterinsurgency Capabilities Fund (PCCF). While we respect the Chairman's desire to preserve the prerogatives of the Department of State with respect to the allocation of security assistance, we would also point out that the Chairman's approach is at variance with the administration request—including that of CENTCOM Commander Petraeus—as well as the Republican substitute.

The administration has requested that authority to control the PCCF be invested with the Department of Defense and our senior military representatives on the ground in Pakistan. The Republican substitute retains that authority with the President, as to provide the administration maximum flexibility.

The Majority also preserves restrictions on, what is for Pakistan, the highly symbolic and emotionally-charged issue of their F–16 modernization program. While the Minority shares the Majority's view that Pakistani financial commitments with respect to this program should be adhered to, we would point out that there are other means than legislation for the Committee to vindicate this perspective.

Likewise, while the limitation on U.S. military assistance to Pakistan contained in section 206 has been made somewhat more flexible, we are still concerned that this provision may not be the optimal mechanism to ensure the full support of Pakistan's leaders and citizens for what must be a joint effort to eliminate safe havens, end cross-border attacks, and defeat a spreading neo-Taliban insurgency.

The amended bill also preserves section 304, requiring that all direct payments and request for information by the U.S. to Pakistan be made through civilian authorities. While we fully support the spirit in which this provision is offered, and while we recognize the existence of a national interest waiver, we nevertheless wonder whether in practice this section may not be unduly burdensome to implement.

We also have unresolved technical questions with respect to the Majority's intent in providing "notwithstanding" language at several points in Title I, and similarly are concerned with ambiguities in sections 103 (Multilateral Support for Pakistan) and 104 (establishing the Pakistan Democracy and Prosperity Fund).

Finally, we attach for the record two letters to the Ranking Member of the Armed Services Committee, one from Secretary Gates and Admiral Mullen, the other from CENCOM Commander Petraeus, regarding views on H.R. 1886 and the Pakistan Counter-insurgency Capabilities Fund, respectively.

HON. ILEANA ROS-LEHTINEN,
Ranking Member.

DEPARTMENT OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

APR 28 2009

The Honorable John M. McHugh
Ranking Member, Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. McHugh:

We are writing in response to your April 6th request for Department of Defense views on H.R. 1886, "Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009." The Department of Defense has strong concerns regarding H.R. 1886. The degree of conditionality and limitations on security assistance to Pakistan, specifically on equipment allowed and disallowed under this authorization, severely constrains the flexibility necessary for the Executive Branch and the Department of Defense given the fluid and dynamic environment that exists in Pakistan.

The Department supports the intent of the bill to increase resources for Pakistan. Such increases are needed to support the recently developed Afghanistan-Pakistan Strategy and goals, and to provide a means for implementing key initiatives. The comprehensive approach toward the future U.S.-Pakistan relationship is commendable and the acknowledgement that International Military Education (IMET) and Training and Foreign Military Financing (FMF) play a key role is particularly important.

The Department is concerned about certain aspects of the bill, in particular those provisions that impose conditions on the furnishing of military assistance and that may undermine current Administration authorities such as Global Train and Equip authority (section 1206 of the National Defense Authorization Act for Fiscal Year 2006, as amended), the proposed Pakistan Counterinsurgency Capabilities Fund (PCCF), as well as IMET and FMF. The PCCF, like the Afghanistan and Iraq security force funds that are its model, requires a great measure of flexibility in its authorization, due to the unstable environment in which such assistance is being provided, and it is essential that the use of such funds not be subject to conditionality that would impede the goals of the program. This will allow the Department to use the funds expeditiously and effectively as evolving circumstances may warrant, in an effort to implement the President's strategy for the region most effectively. The Department is also committed to ensuring that transparency and substantial accountability measures for the Fund's oversight are implemented.

The Department also believes that the reporting requirements and miscellaneous provisions on developing a regional security strategy and monitoring and evaluation processes are duplicative of existing oversight mechanisms and are unnecessary.

The Department would appreciate the opportunity to work with your staff on the text of the bill to further reflect more clearly the USG goals and strategy for Pakistan.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter for the consideration of the Committee.

Sincerely,

Robert M. Gates
Secretary of Defense

Sincerely,

M.G. Mullen
Admiral, U.S. Navy

cc: The Honorable Ike Skelton
Chairman

UNITED STATES CENTRAL COMMAND
OFFICE OF THE COMMANDER
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

29 April 2009

The Honorable John McHugh
Ranking Member
Committee on Armed Services
United States House of Representatives
Room 2120 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative McHugh,

I want to ensure clarity about my views on section 1206 funds and on the request for the Pakistan Counterinsurgency Capability Fund (PCCF).

During my closed-door hearing with the HAC-D, I explained the need for the PCCF, explaining that while we still need section 1206 funds as currently authorized, they have limitations. To explain that assessment, I read from an Office of Defense Representative – Pakistan (ODR-P) memo that discussed the shortcomings of section 1206 funds with regard to meeting specific objectives in Pakistan. The rest of that memo later was shared with the committee, and inaccuracies in another part of it mischaracterized section 1206 authorities and have created confusion.

I want it to be clear, again, that Ambassador Patterson, the ODR-P chief, and I strongly urge approval of the PCCF. However, I also strongly support continuation of section 1206 funds as currently authorized. Section 1206 funds have a necessary and important function and are indispensible to training and equipping of our partners' military forces so they can better undertake critical counter-terror and stability operations.

Section 1206 funds also have limitations in dynamic and urgent situations like Pakistan. As the ODR-P assessment makes clear, they are not sufficiently flexible or responsive to enable the senior military representative on the ground to rapidly and decisively respond to dynamic conditions on the ground.

PCCF offers the senior military representative greater flexibility because, by design, PCCF aligns resources, authorities, and responsibilities. In areas of armed conflict, such as in Iraq and Afghanistan, where the Iraq Security Forces Fund (ISFF) and Afghanistan Security Forces Fund (ASFF) are available to commanders on the ground, we have achieved progress because these funds are immediately available and commanders have been able to rapidly adjust to changing conditions on the ground.

PCCF would serve the same purpose in Pakistan, where a growing insurgency threatens the country's very existence and has a direct and deadly impact on U.S. and coalition forces operating in Afghanistan. PCCF would give the senior military representative swift access to

funding to counter and perhaps to prevent emerging threats and to rapidly enhance Pakistani military capabilities.

PCCF for Pakistan would also concretely demonstrate the US commitment to Pakistan -- and to development of counterinsurgency capabilities -- at a time when the President has announced a new strategy for Pakistan that requires transforming our relationship.

In sum, PCCF clearly is needed for Pakistan; however, I also strongly support continuation of section 1206 funding as currently authorized.

Sincerely,

DAVID H. PETRAEUS
General, US Army
Commanding

Copy to:
The Honorable Ike Skelton
Chairman